

AMENDED IN SENATE JUNE 13, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 83

Introduced by Committee on Budget (Blumenfield (Chair), Bloom, Bonilla, Campos, Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mitchell, Mullin, Muratsuchi, Nazarian, Rendon, Skinner, Stone, and Ting)

January 10, 2013

An act relating to the Budget Act of 2013. An act to add Section 12009 to, to add Article 4 (commencing with Section 12240) to Chapter 3 of Part 7 of Division 2 of, to add and repeal Section 12207 of, to add and repeal Article 5 (commencing with Section 6174) of Chapter 2 of Part 1 of Division 2 of, and to repeal, add and repeal, and add Sections 12201, 12204, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, and 13108 of, the Revenue and Taxation Code, and to add Section 14301.11 to the Welfare and Institutions Code, relating to health, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 83, as amended, Committee on Budget. ~~Budget Act of 2013.~~
Public health: Medi-Cal managed care plan taxes.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program

provisions. Under existing law, one of the methods by which Medi-Cal services are provided is pursuant to contracts with various types of managed care plans. Existing law imposes a tax on the gross premiums of insurers in lieu of other taxes on insurers, and, until July 1, 2012, imposed a tax on the total operating revenue, of a Medi-Cal managed care plan, as defined. The revenues derived from the tax on Medi-Cal managed care plans are continuously appropriated for specified purposes.

This bill would, beginning July 1, 2012, and ending July 1, 2013, impose a tax on the total operating revenue of a Medi-Cal managed care plan, as defined. The proceeds from the tax would be continuously appropriated from the Children's Health and Human Services Special Fund to the State Department of Health Care Services and the Managed Risk Medical Insurance Board for specified purposes. This bill also would authorize the Controller to loan funds in the Children's Health and Human Services Special Fund to the General Fund, as provided.

Existing law requires every return required to be filed with the State Insurance Commissioner pursuant to provisions governing taxes on the gross premiums of insurers to be signed by the insurer or an executive officer of the insurer and to be made under oath or contain a written declaration that it is made under penalty of perjury.

This bill would also require Medi-Cal managed care plans to file returns with the commissioner under oath or with a written declaration that is made under penalty of perjury. By expanding the crime of perjury, this bill would impose a state-mandated local program.

The Sales and Use Tax Law imposes a sales tax on retailers for the privilege of selling tangible personal property at retail, measured by the gross receipts from the sale of tangible personal property sold at retail in this state. A violation of specified provisions of this law is a crime.

This bill would, on July 1, 2013, and before July 1, 2016, except if specified contingencies occur as provided, and only if and to the extent that federal financial participation is available and necessary federal approvals have been obtained, impose a sales tax on sellers of Medi-Cal managed care plans for the privilege of selling Medi-Cal health care services at retail, measured by the gross receipts from the sale of those services in this state at a specified rate of those gross receipts, as provided. This bill would specify that a seller is a person or entity that enters into a contract with the State Department of Health Care Services to provide for specified health care services, as provided. This bill

would provide for the administration of the tax by the State Board of Equalization. This bill would require all revenues, less refunds, derived from the taxes to be deposited into the Children’s Health and Human Services Special Fund. This bill would continuously appropriate the revenues in the fund to the State Department of Health Care Services solely for purposes of funding managed care rates for health care services for children, seniors, persons with disabilities, and dual eligibles in the Medi-Cal program that reflect the cost of services and acuity of the population served. By changing the definition of a crime, the bill would impose a state-mandated local program.

This bill would also appropriate \$245,000,000 from the Federal Trust Fund to the Managed Risk Medical Insurance Board for the purposes of the Healthy Families Program to be available for expenditure in the 2012–13 fiscal year.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2013.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 5 (commencing with Section 6174) is
2 added to Chapter 2 of Part 1 of Division 2 of the Revenue and
3 Taxation Code, to read:

4
5 Article 5. Inclusion of Medi-Cal Managed Care Plans in Sales
6 Tax

7
8 6174. For purposes of this article, notwithstanding any
9 provision of Chapter 1 (commencing with Section 6001), the
10 following words have the following meanings in extending the
11 sales tax to sellers of Medi-Cal health care services:

1 (a) “Gross receipts” means the total amount received by a seller
2 of a Medi-Cal managed care plan in premium or capitation
3 payments for the coverage or provision of all health care services,
4 including, but not limited to, Medi-Cal services. “Gross receipts”
5 shall not include amounts received by a Medi-Cal managed care
6 plan pursuant to a subcontract with a Medi-Cal managed care
7 plan to provide health care services to Medi-Cal beneficiaries.

8 (b) “Seller” means any person, other than an insurer as
9 described in Section 12003 or a dental managed care plan as
10 described in Section 14087.46 of the Welfare and Institutions Code,
11 or any entity that enters into a contract with the State Department
12 of Health Care Services pursuant to Article 2.7 (commencing with
13 Section 14087.3), Article 2.8 (commencing with Section 14087.5),
14 Article 2.81 (commencing with Section 14087.96), Article 2.82
15 (commencing with Section 14087.98), Article 2.9 (commencing
16 with Section 14088), or Article 2.91 (commencing with Section
17 14089) of Chapter 7 of, or pursuant to Article 1 (commencing with
18 Section 14200) or Article 7 (commencing with Section 14490) of
19 Chapter 8 of, Part 3 of Division 9 of the Welfare and Institutions
20 Code.

21 (c) “At retail” means a sale for any purpose other than resale.

22 (d) “Sale” means the provision of a Medi-Cal managed care
23 plan.

24 6175. Notwithstanding any other provisions in this part, for
25 the privilege of selling Medi-Cal health care services at retail, a
26 tax is hereby extended to all sellers of Medi-Cal managed care
27 plans at the rate of 3.9375 percent of the gross receipts of any
28 seller from the sale of all Medi-Cal managed care plans sold at
29 retail in this state.

30 6176. For the efficient administration of this article and the
31 collection of tax from sellers, a seller shall register with the State
32 Board of Equalization and report and pay the tax to the State
33 Board of Equalization, which shall collect the tax.

34 6177. For the efficient administration of this article and the
35 collection of tax from sellers, Article 1.1 (commencing with Section
36 6470) of Chapter 5, pertaining to prepayment of taxes, shall not
37 apply to sellers until no later than three months after the date that
38 federal financial participation is available and any necessary
39 federal approvals have been obtained.

1 6178. A seller shall file with the board an application pursuant
2 to Section 6066, which shall state that the applicant will actively
3 engage in the retail sale of Medi-Cal health care services.

4 6179. After compliance by the seller with Section 6178 and by
5 the seller and the board with Section 6067, the board shall grant
6 and issue a permit or permits to each applicant pursuant to Section
7 6067.

8 6180. A permit issued pursuant to this article shall be held
9 only by a seller that is actively engaged in the retail sale of
10 Medi-Cal health care services. Any seller not so engaged shall
11 forthwith surrender its permit to the board for cancellation. The
12 board may revoke the permit of a seller found to be not actively
13 engaged in the retail sale of Medi-Cal health care services.

14 6181. For purposes of Section 6486, a seller is a retailer.

15 6182. Every seller shall keep any records, receipts, contracts,
16 and other pertinent papers in such form as the board may require.

17 6183. The board, or any person authorized in writing by the
18 board, may examine the books, papers, records, and equipment
19 of any seller, and may investigate the character of the business of
20 the seller, pursuant to Section 7054.

21 6184. Notwithstanding Section 7101, all revenues, less refunds,
22 derived from the taxes extended by this article shall be deposited
23 in the State Treasury to the credit of the Children's Health and
24 Human Services Special Fund. Funds deposited in the Children's
25 Health and Human Services Special Fund pursuant to this section
26 are hereby continuously appropriated to the State Department of
27 Health Care Services solely for purposes of funding managed care
28 rates for health care services for children, seniors, persons with
29 disabilities, and dual eligibles in the Medi-Cal program that reflect
30 the cost of services and acuity of the population served. The State
31 Department of Health Care Services shall provide a quarterly
32 reconciliation of tax revenue utilization to Medi-Cal managed care
33 plans including an itemized accounting of the dollars as a part of
34 the rate setting process.

35 6184.5. Notwithstanding the Bradley-Burns Uniform Local
36 Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)),
37 the Transactions and Use Tax Law (Part 1.6 (commencing with
38 Section 7251)), and Part 1.7 (commencing with Section 7285), no
39 county, city, or district shall impose a sales or use tax on the gross
40 receipts defined in Section 6174.

1 6185. Notwithstanding any other law, the Controller may use
2 the funds in the Children’s Health and Human Services Special
3 Fund for cashflow loans to the General Fund as provided in
4 Sections 16310 and 16381 of the Government Code.

5 6186. A seller subject to the tax imposed pursuant to this article
6 shall be assessed the amount the seller will be required to pay, but
7 the seller shall not be required to pay the tax if the State
8 Department of Health Care Services has not fulfilled its obligations
9 to provide actuarially sound, monthly capitation payments to the
10 seller, which are certified as actuarially sound by State Department
11 of Health Care Services’ actuaries or contracted actuaries.

12 6187. This article shall be implemented only if and to the extent
13 that federal financial participation under Title XIX of the federal
14 Social Security Act (42 U.S.C. 1395 et seq.) is available and any
15 necessary federal approvals have been obtained. This article is
16 automatically repealed if it is delayed based upon a challenge
17 under federal law.

18 6188. This article shall have no force or effect if there is a final
19 judicial determination made by any state or federal court that is
20 not appealed, in any action by any party, or a final determination
21 by the administrator of the federal Centers for Medicare and
22 Medicaid Services, that disallows, defers, or alters the
23 implementation of this article.

24 6189. This article shall be operative on July 1, 2013, and shall
25 become inoperative on July 1, 2016. As of January 1, 2017, this
26 article is repealed. A tax imposed by this article shall continue to
27 be due and payable until the tax is paid.

28 SEC. 2. Section 12009 is added to the Revenue and Taxation
29 Code, to read:

30 12009. (a) “Medi-Cal managed care plan” or “plan” means
31 any individual, organization, or entity, other than an insurer as
32 described in Section 12003 or a dental managed care plan as
33 described in Section 14087.46 of the Welfare and Institutions Code,
34 that enters into a contract with the State Department of Health
35 Care Services pursuant to Article 2.7 (commencing with Section
36 14087.3), Article 2.8 (commencing with Section 14087.5), Article
37 2.81 (commencing with Section 14087.96), Article 2.82
38 (commencing with Section 14087.98), Article 2.9 (commencing
39 with Section 14088), or Article 2.91 (commencing with Section
40 14089) of Chapter 7 of, or pursuant to Article 1 (commencing with

1 Section 14200) or Article 7 (commencing with Section 14490) of
2 Chapter 8 of, Part 3 of Division 9 of the Welfare and Institutions
3 Code.

4 (b) This section shall become operative on July 1, 2012.

5 SEC. 3. Section 12201 of the Revenue and Taxation Code is
6 repealed.

7 ~~12201. (a) Every insurer doing business in this state shall~~
8 ~~annually pay to the state a tax on the bases, at the rates, and subject~~
9 ~~to the deductions from the tax hereinafter specified. For purposes~~
10 ~~of the tax imposed by this chapter, "insurer" shall be deemed to~~
11 ~~include a home protection company as defined in Section 12740~~
12 ~~of the Insurance Code.~~

13 ~~(b) This section shall become operative on July 1, 2012.~~

14 SEC. 4. Section 12201 is added to the Revenue and Taxation
15 Code, to read:

16 12201. (a) Every insurer and Medi-Cal managed care plan
17 doing business in this state shall annually pay to the state a tax
18 on the bases, at the rates, and subject to the deductions from the
19 tax hereinafter specified. For purposes of the tax imposed by this
20 chapter, "insurer" shall be deemed to include a home protection
21 company as defined in Section 12740 of the Insurance Code.

22 (b) The Children's Health and Human Services Special Fund
23 shall continue to exist in the State Treasury. Notwithstanding
24 Section 13340 of the Government Code, the revenues derived from
25 the imposition of the tax by this chapter on Medi-Cal managed
26 care plans are hereby continuously appropriated as follows:

27 (1) A percentage of the revenues that is equal to the difference
28 between 100 percent and the applicable federal medical assistance
29 percentage to the State Department of Health Care Services, for
30 purposes of the Medi-Cal program.

31 (2) (A) After deducting the revenues appropriated pursuant to
32 paragraph (1), one hundred twenty-five million dollars
33 (\$125,000,000) of the revenues shall be allocated to the Managed
34 Risk Medical Insurance Board for purposes of the Healthy Families
35 Program, including, but not limited to, repaying the loan made
36 under subparagraph (B), and any remaining revenue shall be
37 allocated to the State Department of Health Care Services for
38 purposes of funding managed care rates for health care services
39 for children, seniors, persons with disabilities, and dual eligibles
40 in the Medi-Cal program.

1 (B) Notwithstanding Chapter 1 (commencing with Section
2 18000) of Part 6 of Division 9 of the Welfare and Institutions Code,
3 for the 2012–13 fiscal year, upon approval by the Department of
4 Finance, loans not to exceed one hundred twenty-five million
5 dollars (\$125,000,000) in total shall be made available to the
6 Managed Risk Medical Insurance Board from the General Fund
7 from funds not otherwise appropriated to cover the costs of the
8 Healthy Families Program. Any loan amount shall be repaid by
9 June 30, 2014, using the revenues described in subparagraph (A).

10 (c) Beginning on the effective date of this act, the Insurance
11 Commissioner shall report the amount of revenue derived from
12 the tax imposed on Medi-Cal managed care plans pursuant to this
13 section to the California Health and Human Services Agency, the
14 Joint Legislative Budget Committee, and the Department of
15 Finance.

16 (d) Notwithstanding any other law, the Controller may use the
17 funds in the Children’s Health and Human Services Special Fund
18 for cashflow loans to the General Fund as provided in Sections
19 16310 and 16381 of the Government Code.

20 (e) This section shall be operative on July 1, 2012, and become
21 inoperative on July 1, 2013. As of January 1, 2015, this section
22 shall be repealed. A tax imposed by this section shall continue to
23 be due and payable until the tax is paid.

24 SEC. 5. Section 12201 is added to the Revenue and Taxation
25 Code, to read:

26 12201. (a) Every insurer doing business in this state shall
27 annually pay to the state a tax on the bases, at the rates, and
28 subject to the deductions from the tax hereinafter specified. For
29 purposes of the tax imposed by this chapter, “insurer” shall be
30 deemed to include a home protection company as defined in Section
31 12740 of the Insurance Code.

32 (b) This section shall become operative on July 1, 2013.

33 SEC. 6. Section 12204 of the Revenue and Taxation Code is
34 repealed.

35 12204. (a) ~~The tax imposed on insurers by this chapter is in
36 lieu of all other taxes and licenses, state, county, and municipal,
37 upon those insurers and their property, except:~~

38 ~~(1) Taxes upon their real estate.~~

1 ~~(2) Any retaliatory exactions imposed by paragraph (3) of~~
2 ~~subdivision (f) of Section 28 of Article XIII of the California~~
3 ~~Constitution.~~

4 ~~(3) The tax on ocean marine insurance.~~

5 ~~(4) Motor vehicle and other vehicle registration license fees and~~
6 ~~any other tax or license fee imposed by the state upon vehicles,~~
7 ~~motor vehicles or the operation thereof.~~

8 ~~(5) That each corporate or other attorney-in-fact of a reciprocal~~
9 ~~or interinsurance exchange shall be subject to all taxes imposed~~
10 ~~upon corporations or others doing business in the state, other than~~
11 ~~taxes on income derived from its principal business as~~
12 ~~attorney-in-fact.~~

13 ~~(b) This section shall become operative on July 1, 2012.~~

14 *SEC. 7. Section 12204 is added to the Revenue and Taxation*
15 *Code, to read:*

16 *12204. (a) The tax imposed on insurers by this chapter is in*
17 *lieu of all other taxes and licenses, state, county, and municipal,*
18 *upon those insurers and their property, except:*

19 *(1) Taxes upon their real estate.*

20 *(2) Any retaliatory exactions imposed by paragraph (3) of*
21 *subdivision (f) of Section 28 of Article XIII of the California*
22 *Constitution.*

23 *(3) The tax on ocean marine insurance.*

24 *(4) Motor vehicle and other vehicle registration license fees*
25 *and any other tax or license fee imposed by the state upon vehicles,*
26 *motor vehicles or the operation thereof.*

27 *(5) That each corporate or other attorney in fact of a reciprocal*
28 *or interinsurance exchange shall be subject to all taxes imposed*
29 *upon corporations or others doing business in the state, other than*
30 *taxes on income derived from its principal business as attorney in*
31 *fact.*

32 *(b) This section shall not apply to any Medi-Cal managed care*
33 *plan and to any tax imposed on that plan by this chapter.*

34 *(c) This section shall be operative on July 1, 2012, and become*
35 *inoperative on July 1, 2013. As of January 1, 2015, this section*
36 *shall be repealed.*

37 *SEC. 8. Section 12204 is added to the Revenue and Taxation*
38 *Code, to read:*

1 12204. (a) *The tax imposed on insurers by this chapter is in*
 2 *lieu of all other taxes and licenses, state, county, and municipal,*
 3 *upon those insurers and their property, except:*

- 4 (1) *Taxes upon their real estate.*
- 5 (2) *Any retaliatory exactions imposed by paragraph (3) of*
 6 *subdivision (f) of Section 28 of Article XIII of the California*
 7 *Constitution.*
- 8 (3) *The tax on ocean marine insurance.*
- 9 (4) *Motor vehicle and other vehicle registration license fees*
 10 *and any other tax or license fee imposed by the state upon vehicles,*
 11 *motor vehicles, or the operation thereof.*
- 12 (5) *That each corporate or other attorney-in-fact of a reciprocal*
 13 *or interinsurance exchange shall be subject to all taxes imposed*
 14 *upon corporations or others doing business in the state, other than*
 15 *taxes on income derived from its principal business as*
 16 *attorney-in-fact.*

17 (b) *This section shall become operative on July 1, 2013.*
 18 SEC. 9. *Section 12207 is added to the Revenue and Taxation*
 19 *Code, to read:*

20 12207. (a) *Notwithstanding any other provision of this part,*
 21 *no credit shall be allowed under Section 12206, 12208, or 12209*
 22 *against the tax imposed on Medi-Cal managed care plans pursuant*
 23 *to Section 12201.*

24 (b) *This section shall be operative on July 1, 2012, and become*
 25 *inoperative on July 1, 2013. As of January 1, 2015, this section*
 26 *shall be repealed.*

27 SEC. 10. *Article 4 (commencing with Section 12240) is added*
 28 *to Chapter 3 of Part 7 of Division 2 of the Revenue and Taxation*
 29 *Code, to read:*

30
 31 *Article 4. Basis of Tax for Medi-Cal Managed Care Plans*
 32

33 12240. *In the case of a Medi-Cal managed care plan, the basis*
 34 *of the tax is, in respect to each year, total operating revenue.*

35 12241. *For purposes of this article, “total operating revenue”*
 36 *means all amounts received by a Medi-Cal managed care plan in*
 37 *premium or capitation payments for the coverage or provision of*
 38 *all health care services, including, but not limited to, Medi-Cal*
 39 *services. Total operating revenue shall not include amounts*
 40 *received by a Medi-Cal managed care plan pursuant to a*

1 subcontract with a Medi-Cal managed care plan to provide health
2 care services to Medi-Cal beneficiaries.

3 12242. This article shall be operative on July 1, 2012.

4 SEC. 11. Section 12251 of the Revenue and Taxation Code is
5 repealed.

6 ~~12251. (a) For the calendar year 1970, and each calendar year~~
7 ~~thereafter, insurers transacting insurance in this state and whose~~
8 ~~annual tax for the preceding calendar year was five thousand dollars~~
9 ~~(\$5,000) or more shall make prepayments of the annual tax for the~~
10 ~~current calendar year imposed by Section 28 of Article XIII of the~~
11 ~~California Constitution and this part, provided that no prepayments~~
12 ~~shall be made with respect to the tax on ocean marine insurance~~
13 ~~underwriting profit or any retaliatory tax.~~

14 ~~(b) This section shall become operative on July 1, 2012.~~

15 SEC. 12. Section 12251 is added to the Revenue and Taxation
16 Code, to read:

17 12251. (a) For the calendar year 1970, and each calendar
18 year thereafter, insurers transacting insurance in this state and
19 whose annual tax for the preceding calendar year was five
20 thousand dollars (\$5,000) or more shall make prepayments of the
21 annual tax for the current calendar year imposed by Section 28
22 of Article XIII of the California Constitution and this part, provided
23 that no prepayments shall be made with respect to the tax on ocean
24 marine insurance underwriting profit or any retaliatory tax.

25 (b) Medi-Cal managed care plans shall make prepayments of
26 the tax imposed by Section 12201 for the current calendar year,
27 except that no prepayments shall be required prior to the effective
28 date of the act adding this subdivision, and no penalties and
29 interest shall be imposed pursuant to Section 12261 for not making
30 those prepayments.

31 (c) This section shall be operative on July 1, 2012, and become
32 inoperative on July 1, 2013. As of January 1, 2015, this section
33 shall be repealed.

34 SEC. 13. Section 12251 is added to the Revenue and Taxation
35 Code, to read:

36 12251. (a) For the calendar year 1970, and each calendar
37 year thereafter, insurers transacting insurance in this state and
38 whose annual tax for the preceding calendar year was five
39 thousand dollars (\$5,000) or more shall make prepayments of the
40 annual tax for the current calendar year imposed by Section 28

1 of Article XIII of the California Constitution and this part, provided
2 that no prepayments shall be made with respect to the tax on ocean
3 marine insurance underwriting profit or any retaliatory tax.

4 (b) This section shall become operative on July 1, 2013.

5 SEC. 14. Section 12253 of the Revenue and Taxation Code is
6 repealed.

7 ~~12253. (a) Each insurer required to make prepayments shall~~
8 ~~remit them on or before each of the dates of April 1st, June 1st,~~
9 ~~September 1st, and December 1st of the current calendar year.~~
10 ~~Remittances for prepayments shall be made payable to the~~
11 ~~Controller and shall be delivered to the office of the commissioner,~~
12 ~~accompanied by a prepayment form prescribed by the~~
13 ~~commissioner.~~

14 ~~(b) This section shall become operative on July 1, 2012.~~

15 SEC. 15. Section 12253 is added to the Revenue and Taxation
16 Code, to read:

17 12253. (a) Each insurer and Medi-Cal managed care plan
18 required to make prepayments shall remit them on or before each
19 of the dates of April 1, June 1, September 1, and December 1 of
20 the current calendar year. Remittances for prepayments shall be
21 made payable to the Controller and shall be delivered to the office
22 of the commissioner, accompanied by a prepayment form
23 prescribed by the commissioner.

24 (b) This section shall be operative on July 1, 2012, and become
25 inoperative on July 1, 2013. As of January 1, 2015, this section
26 shall be repealed.

27 SEC. 16. Section 12253 is added to the Revenue and Taxation
28 Code, to read:

29 12253. (a) Each insurer required to make prepayments shall
30 remit them on or before each of the dates of April 1, June 1,
31 September 1, and December 1 of the current calendar year.
32 Remittances for prepayments shall be made payable to the
33 Controller and shall be delivered to the office of the commissioner,
34 accompanied by a prepayment form prescribed by the
35 commissioner.

36 (b) This section shall become operative on July 1, 2013.

37 SEC. 17. Section 12254 of the Revenue and Taxation Code is
38 repealed.

1 ~~12254. (a) The amount of each prepayment shall be 25 percent~~
2 ~~of the amount of the annual insurance tax liability reported on the~~
3 ~~return of the insurer for the preceding calendar year.~~

4 ~~(b) In establishing the prepayment amount of an insurer that~~
5 ~~has acquired the business of another insurer, the amount of tax~~
6 ~~liability of the acquiring insurer reported for the preceding calendar~~
7 ~~year shall be deemed to include the amount of tax liability of the~~
8 ~~acquired insurer reported for that year.~~

9 ~~(c) This section shall become operative on July 1, 2012.~~

10 *SEC. 18. Section 12254 is added to the Revenue and Taxation*
11 *Code, to read:*

12 *12254. (a) (1) For each insurer, the amount of each*
13 *prepayment shall be 25 percent of the amount of the annual*
14 *insurance tax liability reported on the return of the insurer for the*
15 *preceding calendar year.*

16 *(2) For each Medi-Cal managed care plan, the amount of each*
17 *prepayment shall be 25 percent of the amount of tax the plan*
18 *estimates as the amount of tax imposed by Section 12201 with*
19 *respect to the plan.*

20 *(b) In establishing the prepayment amount of an insurer that*
21 *has acquired the business of another insurer, the amount of tax*
22 *liability of the acquiring insurer reported for the preceding*
23 *calendar year shall be deemed to include the amount of tax liability*
24 *of the acquired insurer reported for that year.*

25 *(c) This section shall be operative on July 1, 2012, and become*
26 *inoperative on July 1, 2013. As of January 1, 2015, this section*
27 *shall be repealed.*

28 *SEC. 19. Section 12254 is added to the Revenue and Taxation*
29 *Code, to read:*

30 *12254. (a) The amount of each prepayment shall be 25 percent*
31 *of the amount of the annual insurance tax liability reported on the*
32 *return of the insurer for the preceding calendar year.*

33 *(b) In establishing the prepayment amount of an insurer that*
34 *has acquired the business of another insurer, the amount of tax*
35 *liability of the acquiring insurer reported for the preceding*
36 *calendar year shall be deemed to include the amount of tax liability*
37 *of the acquired insurer reported for that year.*

38 *(c) This section shall become operative on July 1, 2013.*

39 *SEC. 20. Section 12257 of the Revenue and Taxation Code is*
40 *repealed.*

1 ~~12257. (a) If the total amount of prepayments for any calendar~~
 2 ~~year exceeds the amount of annual tax for that year, the excess~~
 3 ~~shall be treated as an overpayment of annual tax and, at the election~~
 4 ~~of the insurer, may be credited against the amounts due and payable~~
 5 ~~for the first prepayment of the following year. Any amount of the~~
 6 ~~overpayment not so credited shall be allowed as a credit or refund~~
 7 ~~under Article 2 (commencing with Section 12977) of Chapter 7~~
 8 ~~of this part.~~

9 ~~(b) This section shall become operative on July 1, 2012.~~

10 *SEC. 21. Section 12257 is added to the Revenue and Taxation*
 11 *Code, to read:*

12 *12257. (a) If the total amount of prepayments for any calendar*
 13 *year exceeds the amount of annual tax for that year, the excess*
 14 *shall be treated as an overpayment of annual tax and, at the*
 15 *election of the insurer or Medi-Cal managed care plan, may be*
 16 *credited against the amounts due and payable for the first*
 17 *prepayment of the following year. Any amount of the overpayment*
 18 *not so credited shall be allowed as a credit or refund under Article*
 19 *2 (commencing with Section 12977) of Chapter 7.*

20 *(b) This section shall be operative on July 1, 2012, and become*
 21 *inoperative on July 1, 2013. As of January 1, 2015, this section*
 22 *shall be repealed.*

23 *SEC. 22. Section 12257 is added to the Revenue and Taxation*
 24 *Code, to read:*

25 *12257. (a) If the total amount of prepayments for any calendar*
 26 *year exceeds the amount of annual tax for that year, the excess*
 27 *shall be treated as an overpayment of annual tax and, at the*
 28 *election of the insurer, may be credited against the amounts due*
 29 *and payable for the first prepayment of the following year. Any*
 30 *amount of the overpayment not so credited shall be allowed as a*
 31 *credit or refund under Article 2 (commencing with Section 12977)*
 32 *of Chapter 7 of this part.*

33 *(b) This section shall become operative on July 1, 2013.*

34 *SEC. 23. Section 12258 of the Revenue and Taxation Code is*
 35 *repealed.*

36 ~~12258. (a) Any insurer that fails to pay any prepayment within~~
 37 ~~the time required shall pay a penalty of 10 percent of the amount~~
 38 ~~of the required prepayment, plus interest at the modified adjusted~~
 39 ~~rate per month, or fraction thereof, established pursuant to Section~~
 40 ~~6591.5, from the due date of the prepayment until the date of~~

1 ~~payment but not for any period after the due date of the annual~~
2 ~~tax. Assessments of prepayment deficiencies may be made in the~~
3 ~~manner provided by deficiency assessments of the annual tax.~~

4 ~~(b) This section shall become operative on July 1, 2012.~~

5 *SEC. 24. Section 12258 is added to the Revenue and Taxation*
6 *Code, to read:*

7 *12258. (a) (1) Any insurer or Medi-Cal managed care plan*
8 *that fails to pay any prepayment within the time required shall pay*
9 *a penalty of 10 percent of the amount of the required prepayment,*
10 *plus interest at the modified adjusted rate per month, or fraction*
11 *thereof, established pursuant to Section 6591.5, from the due date*
12 *of the prepayment until the date of payment but not for any period*
13 *after the due date of the annual tax. Assessments of prepayment*
14 *deficiencies may be made in the manner provided by deficiency*
15 *assessments of the annual tax.*

16 *(2) This section shall only apply, with regard to Medi-Cal*
17 *managed care plans, to the failure to pay any prepayments that*
18 *occur on or after the effective date of the act that added this*
19 *section.*

20 *(b) Notwithstanding any other law, 100 percent of the tax due*
21 *for total operating revenue, as defined by Section 12241, that a*
22 *Medi-Cal managed care plan receives for the service periods from*
23 *January 1, 2009, to June 30, 2013, inclusive, not previously paid,*
24 *but which continue to be subject to tax, shall be paid no later than*
25 *30 days after the effective date of this section. If a Medi-Cal*
26 *managed care plan subsequently receives additional amounts*
27 *includable in its total operating revenue for the service periods*
28 *referenced in this section, 100 percent of the tax shall continue to*
29 *be due and shall be paid no later than 30 days after receipt of*
30 *those amounts.*

31 *(c) This section shall be operative on July 1, 2012, and become*
32 *inoperative on July 1, 2013. As of January 1, 2015, this section*
33 *shall be repealed.*

34 *SEC. 25. Section 12258 is added to the Revenue and Taxation*
35 *Code, to read:*

36 *12258. (a) Any insurer that fails to pay any prepayment within*
37 *the time required shall pay a penalty of 10 percent of the amount*
38 *of the required prepayment, plus interest at the modified adjusted*
39 *rate per month, or fraction thereof, established pursuant to Section*
40 *6591.5, from the due date of the prepayment until the date of*

1 payment but not for any period after the due date of the annual
2 tax. Assessments of prepayment deficiencies may be made in the
3 manner provided by deficiency assessments of the annual tax.

4 (b) Notwithstanding any other law, if a Medi-Cal managed care
5 plan, as defined in subdivision (a) of Section 12009, receives
6 additional amounts includable in its total operating revenue, as
7 defined in Section 12241, for the service periods from January 1,
8 2009, to June 30, 2013, inclusive, those amounts shall continue to
9 be subject to the tax imposed by Section 12201, as added by Section
10 4 of the act adding this section, as added by Section 5 of Chapter
11 157 of the Statutes of 2009, as added by Section 31 of Chapter 717
12 of the Statutes of 2010, and as added by Section 2 of Chapter 11
13 of the First Extraordinary Session of the Statutes of 2011, and 100
14 percent of the tax continues to be due and shall be submitted to
15 the Department of Insurance no later than 30 days after receipt
16 of those amounts.

17 (c) This section shall become operative on July 1, 2013.

18 SEC. 26. Section 12260 of the Revenue and Taxation Code is
19 repealed.

20 ~~12260. (a) Notwithstanding any other provision of this article,~~
21 ~~the commissioner may relieve an insurer of its obligation to make~~
22 ~~prepayments where the insurer establishes to the satisfaction of~~
23 ~~the commissioner that either the insurer has ceased to transact~~
24 ~~insurance in this state, or the insurer's annual tax for the current~~
25 ~~year will be less than five thousand dollars (\$5,000).~~

26 ~~(b) This section shall become operative on July 1, 2012.~~

27 SEC. 27. Section 12260 is added to the Revenue and Taxation
28 Code, to read:

29 12260. (a) Notwithstanding any other provision of this article,
30 the commissioner may relieve an insurer or Medi-Cal managed
31 care plan of its obligation to make prepayments where the insurer
32 or Medi-Cal managed care plan establishes to the satisfaction of
33 the commissioner that the insurer has ceased to transact insurance
34 in this state or the Medi-Cal managed care plan has ceased to
35 operate a plan in this state, or the insurer's or Medi-Cal managed
36 care plan's annual tax for the current year will be less than five
37 thousand dollars (\$5,000).

38 (b) This section shall be operative on July 1, 2012, and become
39 inoperative on July 1, 2013. As of January 1, 2015, this section
40 shall be repealed.

1 *SEC. 28. Section 12260 is added to the Revenue and Taxation*
2 *Code, to read:*

3 12260. (a) *Notwithstanding any other provision of this article,*
4 *the commissioner may relieve an insurer of its obligation to make*
5 *prepayments where the insurer establishes to the satisfaction of*
6 *the commissioner that either the insurer has ceased to transact*
7 *insurance in this state, or the insurer's annual tax for the current*
8 *year will be less than five thousand dollars (\$5,000).*

9 (b) *This section shall become operative on July 1, 2013.*

10 *SEC. 29. Section 12301 of the Revenue and Taxation Code is*
11 *repealed.*

12 ~~12301. (a) The taxes imposed upon insurers by Section 28 of~~
13 ~~Article XIII of the California Constitution and this part, except~~
14 ~~with respect to taxes on ocean marine insurance and retaliatory~~
15 ~~taxes, are due and payable annually on or before April 1st of the~~
16 ~~year following the calendar year in which the insurer engaged in~~
17 ~~the business of insurance or transacted insurance in this state. The~~
18 ~~taxes imposed with respect to ocean marine insurance are due and~~
19 ~~payable on or before June 15th of that year.~~

20 ~~(b) This section shall become operative on July 1, 2012.~~

21 *SEC. 30. Section 12301 is added to the Revenue and Taxation*
22 *Code, to read:*

23 12301. (a) *The taxes imposed upon insurers by Section 28 of*
24 *Article XIII of the California Constitution and this part, except*
25 *with respect to taxes on ocean marine insurance and retaliatory*
26 *taxes, are due and payable annually on or before April 1 of the*
27 *year following the calendar year in which the insurer engaged in*
28 *the business of insurance or transacted insurance in this state.*
29 *The taxes imposed with respect to ocean marine insurance are due*
30 *and payable on or before June 15 of that year.*

31 (b) *With respect to Medi-Cal managed care plans, the taxes*
32 *imposed by Section 12201 shall be due and payable on or before*
33 *April 1 of the year following the calendar year in which the plan*
34 *contracted with the State Department of Health Care Services as*
35 *described in Section 12009.*

36 (c) *This section shall be operative on July 1, 2012, and become*
37 *inoperative on July 1, 2013. As of January 1, 2015, this section*
38 *shall be repealed. A tax imposed by Section 28 of the California*
39 *Constitution and this part shall continue to be due and payable*
40 *until the tax is paid.*

1 *SEC. 31. Section 12301 is added to the Revenue and Taxation*
2 *Code, to read:*

3 12301. (a) *The taxes imposed upon insurers by Section 28 of*
4 *Article XIII of the California Constitution and this part, except*
5 *with respect to taxes on ocean marine insurance and retaliatory*
6 *taxes, are due and payable annually on or before April 1 of the*
7 *year following the calendar year in which the insurer engaged in*
8 *the business of insurance or transacted insurance in this state.*
9 *The taxes imposed with respect to ocean marine insurance are due*
10 *and payable on or before June 15 of that year.*

11 (b) *This section shall become operative on July 1, 2013.*

12 *SEC. 32. Section 12302 of the Revenue and Taxation Code is*
13 *repealed.*

14 12302. ~~(a) On or before April 1st (or June 15th with respect~~
15 ~~to taxes on ocean marine insurance) every person that is subject~~
16 ~~to any tax imposed by Section 28 of Article XIII of the California~~
17 ~~Constitution or this part, in respect to the preceding calendar year~~
18 ~~shall file, in duplicate, an insurance tax return with the~~
19 ~~commissioner in the form as the commissioner may prescribe. The~~
20 ~~return shall show that information pertaining to its insurance~~
21 ~~business in this state as will reflect the basis of its tax as set forth~~
22 ~~in Chapter 2 (commencing with Section 12071) and Chapter 3~~
23 ~~(commencing with Section 12201) of this part, the computation~~
24 ~~of the amount of tax for the period covered by the return, the total~~
25 ~~amount of any tax prepayments made pursuant to Article 5~~
26 ~~(commencing with Section 12251) of Chapter 3 of this part, and~~
27 ~~any other information as the commissioner may require to carry~~
28 ~~out the purposes of this part. Separate returns shall be filed with~~
29 ~~respect to the following kinds of insurance:~~

30 ~~(1) Life insurance (or life insurance and disability insurance).~~

31 ~~(2) Ocean marine insurance.~~

32 ~~(3) Title insurance.~~

33 ~~(4) Insurance other than life insurance (or life insurance and~~
34 ~~disability insurance), ocean marine insurance or title insurance.~~

35 ~~(b) This section shall become operative on July 1, 2012.~~

36 *SEC. 33. Section 12302 is added to the Revenue and Taxation*
37 *Code, to read:*

38 12302. (a) *On or before April 1 (or June 15 with respect to*
39 *taxes on ocean marine insurance) every person that is subject to*
40 *any tax imposed by Section 28 of Article XIII of the California*

1 Constitution or this part, in respect to the preceding calendar year
2 shall file, in duplicate, a tax return with the commissioner in the
3 form as the commissioner may prescribe. The return shall show
4 that information pertaining to its insurance business, or in the
5 case of a Medi-Cal managed care plan, pertaining to contracts
6 for providing services as described in Section 12009, in this state
7 as will reflect the basis of its tax as set forth in Chapter 2
8 (commencing with Section 12071) and Chapter 3 (commencing
9 with Section 12201), the computation of the amount of tax for the
10 period covered by the return, the total amount of any tax
11 prepayments made pursuant to Article 5 (commencing with Section
12 12251) of Chapter 3, and any other information as the
13 commissioner may require to carry out the purposes of this part.
14 Separate returns shall be filed with respect to the following kinds
15 of insurance:

16 (1) Life insurance (or life insurance and disability insurance).

17 (2) Ocean marine insurance.

18 (3) Title insurance.

19 (4) Insurance other than life insurance (or life insurance and
20 disability insurance), ocean marine insurance or title insurance.

21 (b) This section shall be operative on July 1, 2012, and become
22 inoperative on July 1, 2013. As of January 1, 2015, this section
23 shall be repealed.

24 SEC. 34. Section 12302 is added to the Revenue and Taxation
25 Code, to read:

26 12302. (a) On or before April 1 (or June 15 with respect to
27 taxes on ocean marine insurance) every person that is subject to
28 any tax imposed by Section 28 of Article XIII of the California
29 Constitution or this part, in respect to the preceding calendar year
30 shall file, in duplicate, an insurance tax return with the
31 commissioner in the form as the commissioner may prescribe. The
32 return shall show that information pertaining to its insurance
33 business in this state as will reflect the basis of its tax as set forth
34 in Chapter 2 (commencing with Section 12071) and Chapter 3
35 (commencing with Section 12201) of this part, the computation of
36 the amount of tax for the period covered by the return, the total
37 amount of any tax prepayments made pursuant to Article 5
38 (commencing with Section 12251) of Chapter 3 of this part, and
39 any other information as the commissioner may require to carry

1 out the purposes of this part. Separate returns shall be filed with
 2 respect to the following kinds of insurance:

3 (1) Life insurance (or life insurance and disability insurance).

4 (2) Ocean marine insurance.

5 (3) Title insurance.

6 (4) Insurance other than life insurance (or life insurance and
 7 disability insurance), ocean marine insurance or title insurance.

8 (b) This section shall become operative on July 1, 2013.

9 SEC. 35. Section 12303 of the Revenue and Taxation Code is
 10 repealed.

11 ~~12303. (a) Every return required by this article to be filed with~~
 12 ~~the commissioner shall be signed by the insurer or an executive~~
 13 ~~officer of the insurer and shall be made under oath or contain a~~
 14 ~~written declaration that it is made under penalty of perjury. A~~
 15 ~~return of a foreign insurer may be signed and verified by its~~
 16 ~~manager residing within this state. A return of an alien insurer may~~
 17 ~~be signed and verified by the United States manager of the insurer.~~

18 ~~(b) This section shall become operative on July 1, 2012.~~

19 SEC. 36. Section 12303 is added to the Revenue and Taxation
 20 Code, to read:

21 12303. (a) Every return required by this article to be filed
 22 with the commissioner shall be signed by the insurer or Medi-Cal
 23 managed care plan or an executive officer of the insurer or plan
 24 and shall be made under oath or contain a written declaration
 25 that it is made under penalty of perjury. A return of a foreign
 26 insurer may be signed and verified by its manager residing within
 27 this state. A return of an alien insurer may be signed and verified
 28 by the United States manager of the insurer.

29 (b) This section shall be operative on July 1, 2012, and become
 30 inoperative on July 1, 2013. As of January 1, 2015, this section
 31 shall be repealed.

32 SEC. 37. Section 12303 is added to the Revenue and Taxation
 33 Code, to read:

34 12303. (a) Every return required by this article to be filed
 35 with the commissioner shall be signed by the insurer or an
 36 executive officer of the insurer and shall be made under oath or
 37 contain a written declaration that it is made under penalty of
 38 perjury. A return of a foreign insurer may be signed and verified
 39 by its manager residing within this state. A return of an alien

1 insurer may be signed and verified by the United States manager
2 of the insurer.

3 (b) This section shall become operative on July 1, 2013.

4 SEC. 38. Section 12304 of the Revenue and Taxation Code is
5 repealed.

6 ~~12304. (a) Blank forms of returns shall be furnished by the
7 commissioner on application, but failure to secure the form shall
8 not relieve any insurer from making or filing a timely return.~~

9 ~~(b) This section shall become operative on July 1, 2012.~~

10 SEC. 39. Section 12304 is added to the Revenue and Taxation
11 Code, to read:

12 12304. (a) Blank forms of returns shall be furnished by the
13 commissioner on application, but failure to secure the form shall
14 not relieve any insurer or Medi-Cal managed care plan from
15 making or filing a timely return.

16 (b) This section shall be operative on July 1, 2012, and become
17 inoperative on July 1, 2013. As of January 1, 2015, this section
18 shall be repealed.

19 SEC. 40. Section 12304 is added to the Revenue and Taxation
20 Code, to read:

21 12304. (a) Blank forms of returns shall be furnished by the
22 commissioner on application, but failure to secure the form shall
23 not relieve any insurer from making or filing a timely return.

24 (b) This section shall become operative on July 1, 2013.

25 SEC. 41. Section 12305 of the Revenue and Taxation Code is
26 repealed.

27 ~~12305. (a) The insurer required to file a return shall deliver
28 the return in duplicate, together with a remittance payable to the
29 Controller, for the amount of tax computed and shown thereon,
30 less any prepayments made pursuant to Article 5 (commencing
31 with Section 12251) of Chapter 3 of this part, to the office of the
32 commissioner.~~

33 ~~(b) This section shall become operative on July 1, 2012.~~

34 SEC. 42. Section 12305 is added to the Revenue and Taxation
35 Code, to read:

36 12305. (a) The insurer or Medi-Cal managed care plan
37 required to file a return shall deliver the return in duplicate,
38 together with a remittance payable to the Controller, for the
39 amount of tax computed and shown thereon, less any prepayments

1 made pursuant to Article 5 (commencing with Section 12251) of
2 Chapter 3, to the office of the commissioner.

3 (b) This section shall be operative on July 1, 2012, and become
4 inoperative on July 1, 2013. As of January 1, 2015, this section
5 shall be repealed.

6 SEC. 43. Section 12305 is added to the Revenue and Taxation
7 Code, to read:

8 12305. (a) The insurer required to file a return shall deliver
9 the return in duplicate, together with a remittance payable to the
10 Controller, for the amount of tax computed and shown thereon,
11 less any prepayments made pursuant to Article 5 (commencing
12 with Section 12251) of Chapter 3 of this part, to the office of the
13 commissioner.

14 (b) This section shall become operative on July 1, 2013.

15 SEC. 44. Section 12307 of the Revenue and Taxation Code is
16 repealed.

17 ~~12307. (a) Any insurer that is granted an extension shall pay,~~
18 ~~in addition to the tax, interest at the modified adjusted rate per~~
19 ~~month, or fraction thereof, established pursuant to Section 6591.5,~~
20 ~~from April 1st until the date of payment.~~

21 ~~(b) This section shall become operative on July 1, 2012.~~

22 SEC. 45. Section 12307 is added to the Revenue and Taxation
23 Code, to read:

24 12307. (a) Any insurer or Medi-Cal managed care plan to
25 which an extension is granted shall pay, in addition to the tax,
26 interest at the modified adjusted rate per month, or fraction thereof,
27 established pursuant to Section 6591.5, from April 1 until the date
28 of payment.

29 (b) This section shall be operative on July 1, 2012, and become
30 inoperative on July 1, 2013. As of January 1, 2015, this section
31 shall be repealed.

32 SEC. 46. Section 12307 is added to the Revenue and Taxation
33 Code, to read:

34 12307. (a) Any insurer that is granted an extension shall pay,
35 in addition to the tax, interest at the modified adjusted rate per
36 month, or fraction thereof, established pursuant to Section 6591.5,
37 from April 1 until the date of payment.

38 (b) This section shall become operative on July 1, 2013.

39 SEC. 47. Section 12412 of the Revenue and Taxation Code is
40 repealed.

1 ~~12412. (a) Upon receipt of the duplicate copy of the return of~~
2 ~~an insurer the board shall initially assess the tax in accordance~~
3 ~~with the data as reported by the insurer on the return.~~

4 ~~(b) This section shall become operative on July 1, 2012.~~

5 *SEC. 48. Section 12412 is added to the Revenue and Taxation*
6 *Code, to read:*

7 *12412. (a) Upon receipt of the duplicate copy of the return of*
8 *an insurer or Medi-Cal managed care plan the board shall initially*
9 *assess the tax in accordance with the data as reported by the*
10 *insurer or Medi-Cal managed care plan on the return.*

11 *(b) This section shall be operative on July 1, 2012, and become*
12 *inoperative on July 1, 2013. As of January 1, 2015, this section*
13 *shall be repealed.*

14 *SEC. 49. Section 12412 is added to the Revenue and Taxation*
15 *Code, to read:*

16 *12412. (a) Upon receipt of the duplicate copy of the return of*
17 *an insurer the board shall initially assess the tax in accordance*
18 *with the data as reported by the insurer on the return.*

19 *(b) This section shall become operative on July 1, 2013.*

20 *SEC. 50. Section 12413 of the Revenue and Taxation Code is*
21 *repealed.*

22 ~~12413. (a) The board shall promptly transmit notice of its~~
23 ~~initial assessment to the commissioner and the Controller, and if~~
24 ~~the initial assessment differs from the amount computed by the~~
25 ~~insurer, notice shall also be given to the insurer.~~

26 ~~(b) This section shall become operative on July 1, 2012.~~

27 *SEC. 51. Section 12413 is added to the Revenue and Taxation*
28 *Code, to read:*

29 *12413. (a) The board shall promptly transmit notice of its*
30 *initial assessment to the commissioner and the Controller, and if*
31 *the initial assessment differs from the amount computed by the*
32 *insurer or Medi-Cal managed care plan, notice shall also be given*
33 *to the insurer or Medi-Cal managed care plan.*

34 *(b) This section shall be operative on July 1, 2012, and become*
35 *inoperative on July 1, 2013. As of January 1, 2015, this section*
36 *shall be repealed.*

37 *SEC. 52. Section 12413 is added to the Revenue and Taxation*
38 *Code, to read:*

39 *12413. (a) The board shall promptly transmit notice of its*
40 *initial assessment to the commissioner and the Controller, and if*

1 *the initial assessment differs from the amount computed by the*
2 *insurer, notice shall also be given to the insurer.*

3 *(b) This section shall become operative on July 1, 2013.*

4 *SEC. 53. Section 12421 of the Revenue and Taxation Code is*
5 *repealed.*

6 ~~12421. (a) As soon as practicable after an insurer's or surplus~~
7 ~~line broker's return is filed, the commissioner shall examine it,~~
8 ~~together with any information within his or her possession or that~~
9 ~~may come into his or her possession, and he or she shall determine~~
10 ~~the correct amount of tax of the insurer or surplus line broker.~~

11 ~~(b) This section shall become operative on July 1, 2012.~~

12 *SEC. 54. Section 12421 is added to the Revenue and Taxation*
13 *Code, to read:*

14 *12421. (a) As soon as practicable after an insurer's, surplus*
15 *line broker's, or Medi-Cal managed care plan's return is filed,*
16 *the commissioner shall examine it, together with any information*
17 *within his or her possession or that may come into his or her*
18 *possession, and he or she shall determine the correct amount of*
19 *tax of the insurer, surplus line broker, or Medi-Cal managed care*
20 *plan.*

21 *(b) This section shall be operative on July 1, 2012, and become*
22 *inoperative on July 1, 2013. As of January 1, 2015, this section*
23 *shall be repealed.*

24 *SEC. 55. Section 12421 is added to the Revenue and Taxation*
25 *Code, to read:*

26 *12421. (a) As soon as practicable after an insurer's or surplus*
27 *line broker's return is filed, the commissioner shall examine it,*
28 *together with any information within his or her possession or that*
29 *may come into his or her possession, and he or she shall determine*
30 *the correct amount of tax of the insurer or surplus line broker.*

31 *(b) This section shall become operative on July 1, 2013.*

32 *SEC. 56. Section 12422 of the Revenue and Taxation Code is*
33 *repealed.*

34 ~~12422. (a) If the commissioner determines that the amount of~~
35 ~~tax disclosed by the insurer's tax return and assessed by the board~~
36 ~~is less than the amount of tax disclosed by his or her examination,~~
37 ~~he or she shall propose, in writing, to the board a deficiency~~
38 ~~assessment for the difference. The proposal shall set forth the basis~~
39 ~~for the deficiency assessment and the details of its computation.~~

1 ~~(b) If the commissioner determines that the amount of tax~~
2 ~~disclosed by the surplus line broker's tax return is less than the~~
3 ~~amount of tax disclosed by his or her examination, he or she shall~~
4 ~~propose, in writing, to the board a deficiency assessment for the~~
5 ~~difference. The proposal shall set forth the basis for the deficiency~~
6 ~~assessment and the details of its computation.~~

7 ~~(e) This section shall become operative on July 1, 2012.~~

8 *SEC. 57. Section 12422 is added to the Revenue and Taxation*
9 *Code, to read:*

10 *12422. (a) If the commissioner determines that the amount of*
11 *tax disclosed by the insurer's tax return and assessed by the board*
12 *is less than the amount of tax disclosed by his or her examination,*
13 *he or she shall propose, in writing, to the board a deficiency*
14 *assessment for the difference. The proposal shall set forth the basis*
15 *for the deficiency assessment and the details of its computation.*

16 *(b) If the commissioner determines that the amount of tax*
17 *disclosed by the surplus line broker's tax return is less than the*
18 *amount of tax disclosed by his or her examination, he or she shall*
19 *propose, in writing, to the board a deficiency assessment for the*
20 *difference. The proposal shall set forth the basis for the deficiency*
21 *assessment and the details of its computation.*

22 *(c) If the commissioner determines that the amount of tax*
23 *disclosed by the Medi-Cal managed care plan's tax return is less*
24 *than the amount of tax disclosed by his or her examination, he or*
25 *she shall propose, in writing, to the board a deficiency assessment*
26 *for the difference. The proposal shall set forth the basis for the*
27 *deficiency assessment and the details of its computation.*

28 *(d) This section shall be operative on July 1, 2012, and become*
29 *inoperative on July 1, 2013. As of January 1, 2015, this section*
30 *shall be repealed.*

31 *SEC. 58. Section 12422 is added to the Revenue and Taxation*
32 *Code, to read:*

33 *12422. (a) If the commissioner determines that the amount of*
34 *tax disclosed by the insurer's tax return and assessed by the board*
35 *is less than the amount of tax disclosed by his or her examination,*
36 *he or she shall propose, in writing, to the board a deficiency*
37 *assessment for the difference. The proposal shall set forth the basis*
38 *for the deficiency assessment and the details of its computation.*

39 *(b) If the commissioner determines that the amount of tax*
40 *disclosed by the surplus line broker's tax return is less than the*

1 amount of tax disclosed by his or her examination, he or she shall
2 propose, in writing, to the board a deficiency assessment for the
3 difference. The proposal shall set forth the basis for the deficiency
4 assessment and the details of its computation.

5 (c) This section shall become operative on July 1, 2013.

6 SEC. 59. Section 12423 of the Revenue and Taxation Code is
7 repealed.

8 ~~12423. (a) If an insurer or surplus line broker fails to file a~~
9 ~~return, the commissioner may require a return by mailing notice~~
10 ~~to the insurer or surplus line broker to file a return by a specified~~
11 ~~date or he or she may without requiring a return, or upon no return~~
12 ~~having been filed pursuant to the demand therefor, make an~~
13 ~~estimate of the amount of tax due for the calendar year or years in~~
14 ~~respect to which the insurer or surplus line broker failed to file the~~
15 ~~return. The estimate shall be made from any available information~~
16 ~~which is in the commissioner's possession or may come into his~~
17 ~~or her possession, and the commissioner shall propose, in writing,~~
18 ~~to the board a deficiency assessment for the amount of the~~
19 ~~estimated tax. The proposal shall set forth the basis of the estimate~~
20 ~~and the details of the computation of the tax.~~

21 ~~(b) This section shall become operative on July 1, 2012.~~

22 SEC. 60. Section 12423 is added to the Revenue and Taxation
23 Code, to read:

24 12423. (a) If an insurer, surplus line broker, or Medi-Cal
25 managed care plan fails to file a return, the commissioner may
26 require a return by mailing notice to the insurer, surplus line
27 broker, or Medi-Cal managed care plan to file a return by a
28 specified date or he or she may without requiring a return, or upon
29 no return having been filed pursuant to the demand therefor, make
30 an estimate of the amount of tax due for the calendar year or years
31 in respect to which the insurer, surplus line broker, or Medi-Cal
32 managed care plan failed to file the return. The estimate shall be
33 made from any available information which is in the
34 commissioner's possession or may come into his or her possession,
35 and the commissioner shall propose, in writing, to the board a
36 deficiency assessment for the amount of the estimated tax. The
37 proposal shall set forth the basis of the estimate and the details of
38 the computation of the tax.

1 (b) This section shall be operative on July 1, 2012, and become
2 inoperative on July 1, 2013. As of January 1, 2015, this section
3 shall be repealed.

4 SEC. 61. Section 12423 is added to the Revenue and Taxation
5 Code, to read:

6 12423. (a) If an insurer or surplus line broker fails to file a
7 return, the commissioner may require a return by mailing notice
8 to the insurer or surplus line broker to file a return by a specified
9 date or he or she may without requiring a return, or upon no return
10 having been filed pursuant to the demand therefor, make an
11 estimate of the amount of tax due for the calendar year or years
12 in respect to which the insurer or surplus line broker failed to file
13 the return. The estimate shall be made from any available
14 information which is in the commissioner's possession or may
15 come into his or her possession, and the commissioner shall
16 propose, in writing, to the board a deficiency assessment for the
17 amount of the estimated tax. The proposal shall set forth the basis
18 of the estimate and the details of the computation of the tax.

19 (b) This section shall become operative on July 1, 2013.

20 SEC. 62. Section 12427 of the Revenue and Taxation Code is
21 repealed.

22 ~~12427. (a) The board shall promptly notify the insurer or~~
23 ~~surplus line broker of a deficiency assessment made against the~~
24 ~~insurer or surplus line broker.~~

25 ~~(b) This section shall become operative on July 1, 2012.~~

26 SEC. 63. Section 12427 is added to the Revenue and Taxation
27 Code, to read:

28 12427. (a) The board shall promptly notify the insurer, surplus
29 line broker, or Medi-Cal managed care plan of a deficiency
30 assessment made against the insurer, surplus line broker, or
31 Medi-Cal managed care plan.

32 (b) This section shall be operative on July 1, 2012, and become
33 inoperative on July 1, 2013. As of January 1, 2015, this section
34 shall be repealed.

35 SEC. 64. Section 12427 is added to the Revenue and Taxation
36 Code, to read:

37 12427. (a) The board shall promptly notify the insurer or
38 surplus line broker of a deficiency assessment made against the
39 insurer or surplus line broker.

40 (b) This section shall become operative on July 1, 2013.

1 *SEC. 65. Section 12428 of the Revenue and Taxation Code is*
2 *repealed.*

3 ~~12428. (a) An insurer or surplus line broker against which a~~
4 ~~deficiency assessment is made under Section 12424 or 12425 may~~
5 ~~petition for redetermination of the deficiency assessment within~~
6 ~~30 days after service upon the insurer or surplus line broker of the~~
7 ~~notice thereof, by filing with the board a written petition setting~~
8 ~~forth the grounds of objection to the deficiency assessment and~~
9 ~~the correction sought. At the time the petition is filed with the~~
10 ~~board, a copy of the petition shall be filed with the commissioner.~~

11 ~~If a petition for redetermination is not filed within the period~~
12 ~~prescribed by this section, the deficiency assessment becomes final~~
13 ~~and due and payable at the expiration of that period.~~

14 ~~(b) This section shall become operative on July 1, 2012.~~

15 *SEC. 66. Section 12428 is added to the Revenue and Taxation*
16 *Code, to read:*

17 *12428. (a) An insurer, surplus line broker, or Medi-Cal*
18 *managed care plan against which a deficiency assessment is made*
19 *under Section 12424 or 12425 may petition for redetermination*
20 *of the deficiency assessment within 30 days after service upon the*
21 *insurer, surplus line broker, or Medi-Cal managed care plan of*
22 *the notice thereof, by filing with the board a written petition setting*
23 *forth the grounds of objection to the deficiency assessment and*
24 *the correction sought. At the time the petition is filed with the*
25 *board, a copy of the petition shall be filed with the commissioner.*

26 *If a petition for redetermination is not filed within the period*
27 *prescribed by this section, the deficiency assessment becomes final*
28 *and due and payable at the expiration of that period.*

29 *(b) This section shall be operative on July 1, 2012, and become*
30 *inoperative on July 1, 2013. As of January 1, 2015, this section*
31 *shall be repealed.*

32 *SEC. 67. Section 12428 is added to the Revenue and Taxation*
33 *Code, to read:*

34 *12428. (a) An insurer or surplus line broker against which a*
35 *deficiency assessment is made under Section 12424 or 12425 may*
36 *petition for redetermination of the deficiency assessment within*
37 *30 days after service upon the insurer or surplus line broker of*
38 *the notice thereof, by filing with the board a written petition setting*
39 *forth the grounds of objection to the deficiency assessment and*

1 *the correction sought. At the time the petition is filed with the*
2 *board, a copy of the petition shall be filed with the commissioner.*

3 *If a petition for redetermination is not filed within the period*
4 *prescribed by this section, the deficiency assessment becomes final*
5 *and due and payable at the expiration of that period.*

6 *(b) This section shall become operative on July 1, 2013.*

7 *SEC. 68. Section 12429 of the Revenue and Taxation Code is*
8 *repealed.*

9 ~~12429. (a) If a petition for redetermination of a deficiency~~
10 ~~assessment is filed within the time allowed under Section 12428,~~
11 ~~the board shall reconsider the deficiency assessment and, if the~~
12 ~~insurer or surplus line broker has so requested in the petition, shall~~
13 ~~grant an oral hearing for the presentation of evidence and argument~~
14 ~~before the board or its authorized representative. The board shall~~
15 ~~give the petitioner and the commissioner at least 20 days' notice~~
16 ~~of the time and place of hearing. The hearing may be continued~~
17 ~~from time to time as may be necessary.~~

18 ~~(b) This section shall become operative on July 1, 2012.~~

19 *SEC. 69. Section 12429 is added to the Revenue and Taxation*
20 *Code, to read:*

21 *12429. (a) If a petition for redetermination of a deficiency*
22 *assessment is filed within the time allowed under Section 12428,*
23 *the board shall reconsider the deficiency assessment and, if the*
24 *insurer, surplus line broker, or Medi-Cal managed care plan has*
25 *so requested in the petition, shall grant an oral hearing for the*
26 *presentation of evidence and argument before the board or its*
27 *authorized representative. The board shall give the petitioner and*
28 *the commissioner at least 20 days' notice of the time and place of*
29 *hearing. The hearing may be continued from time to time as may*
30 *be necessary.*

31 *(b) This section shall be operative on July 1, 2012, and become*
32 *inoperative on July 1, 2013. As of January 1, 2015, this section*
33 *shall be repealed.*

34 *SEC. 70. Section 12429 is added to the Revenue and Taxation*
35 *Code, to read:*

36 *12429. (a) If a petition for redetermination of a deficiency*
37 *assessment is filed within the time allowed under Section 12428,*
38 *the board shall reconsider the deficiency assessment and, if the*
39 *insurer or surplus line broker has so requested in the petition,*
40 *shall grant an oral hearing for the presentation of evidence and*

1 *argument before the board or its authorized representative. The*
2 *board shall give the petitioner and the commissioner at least 20*
3 *days' notice of the time and place of hearing. The hearing may be*
4 *continued from time to time as may be necessary.*

5 *(b) This section shall become operative on July 1, 2013.*

6 *SEC. 71. Section 12431 of the Revenue and Taxation Code is*
7 *repealed.*

8 ~~12431. (a) The order or decision of the board upon a petition~~
9 ~~for redetermination of a deficiency assessment becomes final 30~~
10 ~~days after service on the insurer or surplus line broker of a notice~~
11 ~~thereof, and any resulting deficiency assessment is due and payable~~
12 ~~at the time the order or decision becomes final.~~

13 ~~(b) This section shall become operative on July 1, 2012.~~

14 *SEC. 72. Section 12431 is added to the Revenue and Taxation*
15 *Code, to read:*

16 *12431. (a) The order or decision of the board upon a petition*
17 *for redetermination of a deficiency assessment becomes final 30*
18 *days after service on the insurer, surplus line broker, or Medi-Cal*
19 *managed care plan of a notice thereof, and any resulting deficiency*
20 *assessment is due and payable at the time the order or decision*
21 *becomes final.*

22 *(b) This section shall be operative on July 1, 2012, and become*
23 *inoperative on July 1, 2013. As of January 1, 2015, this section*
24 *shall be repealed.*

25 *SEC. 73. Section 12431 is added to the Revenue and Taxation*
26 *Code, to read:*

27 *12431. (a) The order or decision of the board upon a petition*
28 *for redetermination of a deficiency assessment becomes final 30*
29 *days after service on the insurer or surplus line broker of a notice*
30 *thereof, and any resulting deficiency assessment is due and payable*
31 *at the time the order or decision becomes final.*

32 *(b) This section shall become operative on July 1, 2013.*

33 *SEC. 74. Section 12433 of the Revenue and Taxation Code is*
34 *repealed.*

35 ~~12433. (a) If before the expiration of the time prescribed in~~
36 ~~Section 12432 for giving of a notice of deficiency assessment the~~
37 ~~insurer or surplus line broker has consented in writing to the giving~~
38 ~~of the notice after that time, the notice may be given at any time~~
39 ~~prior to the expiration of the time agreed upon. The period so~~

1 agreed upon may be extended by subsequent agreements in writing
2 made before the expiration of the period previously agreed upon.

3 ~~(b) This section shall become operative on July 1, 2012.~~

4 SEC. 75. Section 12433 is added to the Revenue and Taxation
5 Code, to read:

6 12433. (a) If before the expiration of the time prescribed in
7 Section 12432 for giving of a notice of deficiency assessment the
8 insurer, surplus line broker, or Medi-Cal managed care plan has
9 consented in writing to the giving of the notice after that time, the
10 notice may be given at any time prior to the expiration of the time
11 agreed upon. The period so agreed upon may be extended by
12 subsequent agreements in writing made before the expiration of
13 the period previously agreed upon.

14 (b) This section shall be operative on July 1, 2012, and become
15 inoperative on July 1, 2013. As of January 1, 2015, this section
16 shall be repealed.

17 SEC. 76. Section 12433 is added to the Revenue and Taxation
18 Code, to read:

19 12433. (a) If before the expiration of the time prescribed in
20 Section 12432 for giving of a notice of deficiency assessment the
21 insurer or surplus line broker has consented in writing to the giving
22 of the notice after that time, the notice may be given at any time
23 prior to the expiration of the time agreed upon. The period so
24 agreed upon may be extended by subsequent agreements in writing
25 made before the expiration of the period previously agreed upon.

26 (b) This section shall become operative on July 1, 2013.

27 SEC. 77. Section 12434 of the Revenue and Taxation Code is
28 repealed.

29 12434. ~~(a) Any notice required by this article shall be placed
30 in a sealed envelope, with postage paid, addressed to the insurer
31 or surplus line broker at its address as it appears in the records of
32 the commissioner or the board. The giving of notice shall be
33 deemed complete at the time of deposit of the notice in the United
34 States Post Office, or a mailbox, subpost office, substation or mail
35 chute or other facility regularly maintained or provided by the
36 United States Postal Service, without extension of time for any
37 reason. In lieu of mailing, a notice may be served personally by
38 delivering to the person to be served and service shall be deemed
39 complete at the time of the delivery. Personal service to a
40 corporation may be made by delivery of a notice to any person~~

1 ~~designated in the Code of Civil Procedure to be served for the~~
2 ~~corporation with summons and complaint in a civil action.~~

3 ~~(b) This section shall become operative on July 1, 2012.~~

4 SEC. 78. *Section 12434 is added to the Revenue and Taxation*
5 *Code, to read:*

6 12434. (a) *Any notice required by this article shall be placed*
7 *in a sealed envelope, with postage paid, addressed to the insurer,*
8 *surplus line broker, or Medi-Cal managed care plan at its address*
9 *as it appears in the records of the commissioner or the board. The*
10 *giving of notice shall be deemed complete at the time of deposit*
11 *of the notice in the United States Post Office, or a mailbox, subpost*
12 *office, substation or mail chute or other facility regularly*
13 *maintained or provided by the United States Postal Service, without*
14 *extension of time for any reason. In lieu of mailing, a notice may*
15 *be served personally by delivering to the person to be served and*
16 *service shall be deemed complete at the time of the delivery.*
17 *Personal service to a corporation may be made by delivery of a*
18 *notice to any person designated in the Code of Civil Procedure to*
19 *be served for the corporation with summons and complaint in a*
20 *civil action.*

21 (b) *This section shall be operative on July 1, 2012, and become*
22 *inoperative on July 1, 2013. As of January 1, 2015, this section*
23 *shall be repealed.*

24 SEC. 79. *Section 12434 is added to the Revenue and Taxation*
25 *Code, to read:*

26 12434. (a) *Any notice required by this article shall be placed*
27 *in a sealed envelope, with postage paid, addressed to the insurer*
28 *or surplus line broker at its address as it appears in the records*
29 *of the commissioner or the board. The giving of notice shall be*
30 *deemed complete at the time of deposit of the notice in the United*
31 *States Post Office, or a mailbox, subpost office, substation or mail*
32 *chute or other facility regularly maintained or provided by the*
33 *United States Postal Service, without extension of time for any*
34 *reason. In lieu of mailing, a notice may be served personally by*
35 *delivering to the person to be served and service shall be deemed*
36 *complete at the time of the delivery. Personal service to a*
37 *corporation may be made by delivery of a notice to any person*
38 *designated in the Code of Civil Procedure to be served for the*
39 *corporation with summons and complaint in a civil action.*

40 (b) *This section shall become operative on July 1, 2013.*

1 *SEC. 80. Section 12491 of the Revenue and Taxation Code is*
2 *repealed.*

3 ~~12491. (a) Every tax levied upon an insurer under the~~
4 ~~provisions of Article XIII of the California Constitution and of~~
5 ~~this part is a lien upon all property and franchises of every kind~~
6 ~~and nature belonging to the insurer, and has the effect of a~~
7 ~~judgment against the insurer.~~

8 ~~(b) (1) Every tax levied upon a surplus line broker under the~~
9 ~~provisions of Part 7.5 (commencing with Section 13201) of~~
10 ~~Division 2 is a lien upon all property and franchises of every kind~~
11 ~~and nature belonging to the surplus line broker, and has the effect~~
12 ~~of a judgment against the surplus line broker.~~

13 ~~(2) A lien levied pursuant to this subdivision shall not exceed~~
14 ~~the amount of unpaid tax collected by the surplus line broker.~~

15 ~~(c) This section shall become operative on July 1, 2012.~~

16 *SEC. 81. Section 12491 is added to the Revenue and Taxation*
17 *Code, to read:*

18 *12491. (a) Every tax levied upon an insurer under Article XIII*
19 *of the California Constitution and this part is a lien upon all*
20 *property and franchises of every kind and nature belonging to the*
21 *insurer, and has the effect of a judgment against the insurer.*

22 *(b) (1) Every tax levied upon a surplus line broker under Part*
23 *7.5 (commencing with Section 13201) of Division 2 is a lien upon*
24 *all property and franchises of every kind and nature belonging to*
25 *the surplus line broker, and has the effect of a judgment against*
26 *the surplus line broker.*

27 *(2) A lien levied pursuant to this subdivision shall not exceed*
28 *the amount of unpaid tax collected by the surplus line broker.*

29 *(c) (1) Every tax levied upon a Medi-Cal managed care plan*
30 *under Chapter 1 (commencing with Section 12001) is a lien upon*
31 *all property and franchises of every kind and nature belonging to*
32 *the Medi-Cal managed care plan, and has the effect of a judgment*
33 *against the Medi-Cal managed care plan.*

34 *(2) A lien levied pursuant to this subdivision shall not exceed*
35 *the amount of unpaid tax collected by the Medi-Cal managed care*
36 *plan.*

37 *(d) This section shall be operative on July 1, 2012, and become*
38 *inoperative on July 1, 2013. As of January 1, 2015, this section*
39 *shall be repealed.*

1 SEC. 82. Section 12491 is added to the Revenue and Taxation
2 Code, to read:

3 12491. (a) Every tax levied upon an insurer under the
4 provisions of Article XIII of the California Constitution and of this
5 part is a lien upon all property and franchises of every kind and
6 nature belonging to the insurer, and has the effect of a judgment
7 against the insurer.

8 (b) (1) Every tax levied upon a surplus line broker under the
9 provisions of Part 7.5 (commencing with Section 13201) of Division
10 2 is a lien upon all property and franchises of every kind and
11 nature belonging to the surplus line broker, and has the effect of
12 a judgment against the surplus line broker.

13 (2) A lien levied pursuant to this subdivision shall not exceed
14 the amount of unpaid tax collected by the surplus line broker.

15 (c) This section shall become operative on July 1, 2013.

16 SEC. 83. Section 12493 of the Revenue and Taxation Code is
17 repealed.

18 ~~12493. (a) Every lien has the effect of an execution duly levied~~
19 ~~against all property of a delinquent insurer or surplus line broker.~~

20 ~~(b) This section shall become operative on July 1, 2012.~~

21 SEC. 84. Section 12493 is added to the Revenue and Taxation
22 Code, to read:

23 12493. (a) Every lien has the effect of an execution duly levied
24 against all property of a delinquent insurer, surplus line broker,
25 or Medi-Cal managed care plan.

26 (b) This section shall be operative on July 1, 2012, and become
27 inoperative on July 1, 2013. As of January 1, 2015, this section
28 shall be repealed.

29 SEC. 85. Section 12493 is added to the Revenue and Taxation
30 Code, to read:

31 12493. (a) Every lien has the effect of an execution duly levied
32 against all property of a delinquent insurer or surplus line broker.

33 (b) This section shall become operative on July 1, 2013.

34 SEC. 86. Section 12494 of the Revenue and Taxation Code is
35 repealed.

36 ~~12494. (a) No judgment is satisfied nor lien removed until~~
37 ~~either:~~

38 ~~(1) The taxes, interest, penalties, and costs are paid.~~

39 ~~(2) The insurer's or surplus line broker's property is sold for~~
40 ~~the payment thereof.~~

1 ~~(b) This section shall become operative on July 1, 2012.~~

2 *SEC. 87. Section 12494 is added to the Revenue and Taxation*
3 *Code, to read:*

4 *12494. (a) No judgment is satisfied nor lien removed until*
5 *either:*

6 *(1) The taxes, interest, penalties, and costs are paid.*

7 *(2) The insurer's, surplus line broker's, or Medi-Cal managed*
8 *care plan's property is sold for the payment thereof.*

9 *(b) This section shall be operative on July 1, 2012, and become*
10 *inoperative on July 1, 2013. As of January 1, 2015, this section*
11 *shall be repealed.*

12 *SEC. 88. Section 12494 is added to the Revenue and Taxation*
13 *Code, to read:*

14 *12494. (a) No judgment is satisfied nor lien removed until*
15 *either:*

16 *(1) The taxes, interest, penalties, and costs are paid.*

17 *(2) The insurer's or surplus line broker's property is sold for*
18 *the payment thereof.*

19 *(b) This section shall become operative on July 1, 2013.*

20 *SEC. 89. Section 12601 of the Revenue and Taxation Code is*
21 *repealed.*

22 ~~12601. (a) Amounts of taxes, interest, and penalties not~~
23 ~~remitted to the commissioner with the original return of the insurer~~
24 ~~shall be payable to the Controller.~~

25 ~~(b) This section shall become operative on July 1, 2012.~~

26 *SEC. 90. Section 12601 is added to the Revenue and Taxation*
27 *Code, to read:*

28 *12601. (a) Amounts of taxes, interest, and penalties not*
29 *remitted to the commissioner with the original return of the insurer*
30 *or Medi-Cal managed care plan shall be payable to the Controller.*

31 *(b) This section shall be operative on July 1, 2012, and become*
32 *inoperative on July 1, 2013. As of January 1, 2015, this section*
33 *shall be repealed.*

34 *SEC. 91. Section 12601 is added to the Revenue and Taxation*
35 *Code, to read:*

36 *12601. (a) Amounts of taxes, interest, and penalties not*
37 *remitted to the commissioner with the original return of the insurer*
38 *shall be payable to the Controller.*

39 *(b) This section shall become operative on July 1, 2013.*

1 ~~SEC. 92. Section 12602 of the Revenue and Taxation Code is~~
2 ~~repealed.~~

3 ~~12602. (a) On and after January 1, 1994, and before January~~
4 ~~1, 1995, each insurer whose annual taxes exceed fifty thousand~~
5 ~~dollars (\$50,000) shall make payment by electronic funds transfer,~~
6 ~~as defined by Section 45 of the Insurance Code. On and after~~
7 ~~January 1, 1995, each insurer whose annual taxes exceed twenty~~
8 ~~thousand dollars (\$20,000) shall make payment by electronic funds~~
9 ~~transfer. The insurer shall choose one of the acceptable methods~~
10 ~~described in Section 45 of the Insurance Code for completing the~~
11 ~~electronic funds transfer.~~

12 ~~(b) Payment shall be deemed complete on the date the electronic~~
13 ~~funds transfer is initiated, if settlement to the state's demand~~
14 ~~account occurs on or before the banking day following the date~~
15 ~~the transfer is initiated. If settlement to the state's demand account~~
16 ~~does not occur on or before the banking day following the date the~~
17 ~~transfer is initiated, payment shall be deemed to occur on the date~~
18 ~~settlement occurs.~~

19 ~~(c) (1) Any insurer required to remit taxes by electronic funds~~
20 ~~transfer pursuant to this section that remits those taxes by means~~
21 ~~other than an appropriate electronic funds transfer, shall be assessed~~
22 ~~a penalty in an amount equal to 10 percent of the taxes due at the~~
23 ~~time of the payment.~~

24 ~~(2) If the Department of Insurance finds that an insurer's failure~~
25 ~~to make payment by an appropriate electronic funds transfer in~~
26 ~~accordance with subdivision (a) is due to reasonable cause or~~
27 ~~circumstances beyond the insurer's control, and occurred~~
28 ~~notwithstanding the exercise of ordinary care and in the absence~~
29 ~~of willful neglect, that insurer shall be relieved of the penalty~~
30 ~~provided in paragraph (1).~~

31 ~~(3) Any insurer seeking to be relieved of the penalty provided~~
32 ~~in paragraph (1) shall file with the Department of Insurance a~~
33 ~~statement under penalty of perjury setting forth the facts upon~~
34 ~~which the claim for relief is based.~~

35 ~~(d) This section shall become operative on July 1, 2012.~~

36 ~~SEC. 93. Section 12602 is added to the Revenue and Taxation~~
37 ~~Code, to read:~~

38 ~~12602. (a) (1) On and after January 1, 1994, and before~~
39 ~~January 1, 1995, each insurer whose annual taxes exceed fifty~~
40 ~~thousand dollars (\$50,000) shall make payment by electronic funds~~

1 transfer, as defined by Section 45 of the Insurance Code. On and
2 after January 1, 1995, each insurer whose annual taxes exceed
3 twenty thousand dollars (\$20,000) shall make payment by
4 electronic funds transfer. The insurer shall choose one of the
5 acceptable methods described in Section 45 of the Insurance Code
6 for completing the electronic funds transfer.

7 (2) Each Medi-Cal managed care plan shall make payment by
8 electronic funds transfer, as defined by Section 45 of the Insurance
9 Code. The plan shall choose one of the acceptable methods
10 described in Section 45 of the Insurance Code for completing the
11 electronic funds transfer.

12 (b) Payment shall be deemed complete on the date the electronic
13 funds transfer is initiated, if settlement to the state's demand
14 account occurs on or before the banking day following the date
15 the transfer is initiated. If settlement to the state's demand account
16 does not occur on or before the banking day following the date
17 the transfer is initiated, payment shall be deemed to occur on the
18 date settlement occurs.

19 (c) (1) Any insurer or Medi-Cal managed care plan required
20 to remit taxes by electronic funds transfer pursuant to this section
21 that remits those taxes by means other than an appropriate
22 electronic funds transfer, shall be assessed a penalty in an amount
23 equal to 10 percent of the taxes due at the time of the payment.

24 (2) If the Department of Insurance finds that an insurer's or
25 Medi-Cal managed care plan's failure to make payment by an
26 appropriate electronic funds transfer in accordance with
27 subdivision (a) is due to reasonable cause or circumstances beyond
28 the insurer's or Medi-Cal managed care plan's control, and
29 occurred notwithstanding the exercise of ordinary care and in the
30 absence of willful neglect, that insurer or Medi-Cal managed care
31 plan shall be relieved of the penalty provided in paragraph (1).

32 (3) Any insurer or Medi-Cal managed care plan seeking to be
33 relieved of the penalty provided in paragraph (1) shall file with
34 the Department of Insurance a statement under penalty of perjury
35 setting forth the facts upon which the claim for relief is based.

36 (d) This section shall be operative on July 1, 2012, and become
37 inoperative on July 1, 2013. As of January 1, 2015, this section
38 shall be repealed.

39 SEC. 94. Section 12602 is added to the Revenue and Taxation
40 Code, to read:

1 12602. (a) On and after January 1, 1994, and before January
2 1, 1995, each insurer whose annual taxes exceed fifty thousand
3 dollars (\$50,000) shall make payment by electronic funds transfer,
4 as defined by Section 45 of the Insurance Code. On and after
5 January 1, 1995, each insurer whose annual taxes exceed twenty
6 thousand dollars (\$20,000) shall make payment by electronic funds
7 transfer. The insurer shall choose one of the acceptable methods
8 described in Section 45 of the Insurance Code for completing the
9 electronic funds transfer.

10 (b) Payment shall be deemed complete on the date the electronic
11 funds transfer is initiated, if settlement to the state's demand
12 account occurs on or before the banking day following the date
13 the transfer is initiated. If settlement to the state's demand account
14 does not occur on or before the banking day following the date
15 the transfer is initiated, payment shall be deemed to occur on the
16 date settlement occurs.

17 (c) (1) Any insurer required to remit taxes by electronic funds
18 transfer pursuant to this section that remits those taxes by means
19 other than an appropriate electronic funds transfer, shall be
20 assessed a penalty in an amount equal to 10 percent of the taxes
21 due at the time of the payment.

22 (2) If the Department of Insurance finds that an insurer's failure
23 to make payment by an appropriate electronic funds transfer in
24 accordance with subdivision (a) is due to reasonable cause or
25 circumstances beyond the insurer's control, and occurred
26 notwithstanding the exercise of ordinary care and in the absence
27 of willful neglect, that insurer shall be relieved of the penalty
28 provided in paragraph (1).

29 (3) Any insurer seeking to be relieved of the penalty provided
30 in paragraph (1) shall file with the Department of Insurance a
31 statement under penalty of perjury setting forth the facts upon
32 which the claim for relief is based.

33 (d) This section shall become operative on July 1, 2013.

34 SEC. 95. Section 12631 of the Revenue and Taxation Code is
35 repealed.

36 ~~12631. (a) Any insurer that fails to pay any tax, except a tax~~
37 ~~determined as a deficiency assessment by the board under Article~~
38 ~~3 (commencing with Section 12421) of Chapter 4, within the time~~
39 ~~required, shall pay a penalty of 10 percent of the amount of the~~
40 ~~tax in addition to the tax, plus interest at the modified adjusted rate~~

1 ~~per month, or fraction thereof, established pursuant to Section~~
2 ~~6591.5, from the due date of the tax until the date of payment.~~

3 ~~(b) This section shall become operative on July 1, 2012.~~

4 *SEC. 96. Section 12631 is added to the Revenue and Taxation*
5 *Code, to read:*

6 *12631. (a) Any insurer or Medi-Cal managed care plan that*
7 *fails to pay any tax, except a tax determined as a deficiency*
8 *assessment by the board under Article 3 (commencing with Section*
9 *12421) of Chapter 4, within the time required, shall pay a penalty*
10 *of 10 percent of the amount of the tax in addition to the tax, plus*
11 *interest at the modified adjusted rate per month, or fraction thereof,*
12 *established pursuant to Section 6591.5, from the due date of the*
13 *tax until the date of payment.*

14 *(b) This section shall be operative on July 1, 2012, and become*
15 *inoperative on July 1, 2013. As of January 1, 2015, this section*
16 *shall be repealed.*

17 *SEC. 97. Section 12631 is added to the Revenue and Taxation*
18 *Code, to read:*

19 *12631. (a) Any insurer that fails to pay any tax, except a tax*
20 *determined as a deficiency assessment by the board under Article*
21 *3 (commencing with Section 12421) of Chapter 4, within the time*
22 *required, shall pay a penalty of 10 percent of the amount of the*
23 *tax in addition to the tax, plus interest at the modified adjusted*
24 *rate per month, or fraction thereof, established pursuant to Section*
25 *6591.5, from the due date of the tax until the date of payment.*

26 *(b) This section shall become operative on July 1, 2013.*

27 *SEC. 98. Section 12632 of the Revenue and Taxation Code is*
28 *repealed.*

29 ~~12632. (a) An insurer that fails to pay any deficiency~~
30 ~~assessment when it becomes due and payable shall, in addition to~~
31 ~~the deficiency assessment, pay a penalty of 10 percent of the~~
32 ~~amount of the deficiency assessment, exclusive of interest and~~
33 ~~penalties. The amount of any deficiency assessment, exclusive of~~
34 ~~penalties, shall bear interest at the modified adjusted rate per~~
35 ~~month, or fraction thereof, established pursuant to Section 6591.5,~~
36 ~~from the date on which the amount, or any portion thereof, would~~
37 ~~have been payable if properly reported and assessed until the date~~
38 ~~of payment.~~

39 ~~(b) This section shall become operative on July 1, 2012.~~

1 SEC. 99. Section 12632 is added to the Revenue and Taxation
2 Code, to read:

3 12632. (a) An insurer or Medi-Cal managed care plan that
4 fails to pay any deficiency assessment when it becomes due and
5 payable shall, in addition to the deficiency assessment, pay a
6 penalty of 10 percent of the amount of the deficiency assessment,
7 exclusive of interest and penalties. The amount of any deficiency
8 assessment, exclusive of penalties, shall bear interest at the
9 modified adjusted rate per month, or fraction thereof, established
10 pursuant to Section 6591.5, from the date on which the amount,
11 or any portion thereof, would have been payable if properly
12 reported and assessed until the date of payment.

13 (b) This section shall be operative on July 1, 2012, and become
14 inoperative on July 1, 2013. As of January 1, 2015, this section
15 shall be repealed.

16 SEC. 100. Section 12632 is added to the Revenue and Taxation
17 Code, to read:

18 12632. (a) An insurer that fails to pay any deficiency
19 assessment when it becomes due and payable shall, in addition to
20 the deficiency assessment, pay a penalty of 10 percent of the
21 amount of the deficiency assessment, exclusive of interest and
22 penalties. The amount of any deficiency assessment, exclusive of
23 penalties, shall bear interest at the modified adjusted rate per
24 month, or fraction thereof, established pursuant to Section 6591.5,
25 from the date on which the amount, or any portion thereof, would
26 have been payable if properly reported and assessed until the date
27 of payment.

28 (b) This section shall become operative on July 1, 2013.

29 SEC. 101. Section 12636 of the Revenue and Taxation Code
30 is repealed.

31 ~~12636. (a) If the board finds that an insurer's failure to make
32 a timely return or payment is due to reasonable cause and to
33 circumstances beyond the insurer's control, and which occurred
34 despite the exercise of ordinary care and in the absence of willful
35 neglect, the insurer may be relieved of the penalty provided by
36 Section 12258, 12282, 12287, 12631, 12632, or 12633.~~

37 ~~Any insurer seeking to be relieved of the penalty shall file with
38 the board a statement under penalty of perjury setting forth the
39 facts upon which the claim for relief is based.~~

40 ~~(b) This section shall become operative on July 1, 2012.~~

1 SEC. 102. Section 12636 is added to the Revenue and Taxation
2 Code, to read:

3 12636. (a) If the board finds that an insurer's or Medi-Cal
4 managed care plan's failure to make a timely return or payment
5 is due to reasonable cause and to circumstances beyond the
6 insurer's or Medi-Cal managed care plan's control, and which
7 occurred despite the exercise of ordinary care and in the absence
8 of willful neglect, the insurer or Medi-Cal managed care plan may
9 be relieved of the penalty provided by Section 12258, 12282,
10 12287, 12631, 12632, or 12633.

11 (b) Any insurer or Medi-Cal managed care plan seeking to be
12 relieved of the penalty shall file with the board a statement under
13 penalty of perjury setting forth the facts upon which the claim for
14 relief is based.

15 (c) This section shall be operative on July 1, 2012, and become
16 inoperative on July 1, 2013. As of January 1, 2015, this section
17 shall be repealed.

18 SEC. 103. Section 12636 is added to the Revenue and Taxation
19 Code, to read:

20 12636. (a) If the board finds that an insurer's failure to make
21 a timely return or payment is due to reasonable cause and to
22 circumstances beyond the insurer's control, and which occurred
23 despite the exercise of ordinary care and in the absence of willful
24 neglect, the insurer may be relieved of the penalty provided by
25 Section 12258, 12282, 12287, 12631, 12632, or 12633.

26 Any insurer seeking to be relieved of the penalty shall file with
27 the board a statement under penalty of perjury setting forth the
28 facts upon which the claim for relief is based.

29 (b) This section shall become operative on July 1, 2013.

30 SEC. 104. Section 12636.5 of the Revenue and Taxation Code
31 is repealed.

32 ~~12636.5.—(a) Every payment on an insurer's or surplus line
33 broker's delinquent annual tax shall be applied as follows:~~

- 34 ~~(1) First, to any interest due on the tax.~~
35 ~~(2) Second, to any penalty imposed by this part.~~
36 ~~(3) The balance, if any, to the tax itself.~~

37 ~~(b) This section shall become operative on July 1, 2012.~~

38 SEC. 105. Section 12636.5 is added to the Revenue and
39 Taxation Code, to read:

1 12636.5. (a) Every payment on an insurer's, surplus line
2 broker's, or Medi-Cal managed care plan's delinquent annual tax
3 shall be applied as follows:

4 (1) First, to any interest due on the tax.

5 (2) Second, to any penalty imposed by this part.

6 (3) The balance, if any, to the tax itself.

7 (b) This section shall be operative on July 1, 2012, and become
8 inoperative on July 1, 2013. As of January 1, 2015, this section
9 shall be repealed.

10 SEC. 106. Section 12636.5 is added to the Revenue and
11 Taxation Code, to read:

12 12636.5. (a) Every payment on an insurer's or surplus line
13 broker's delinquent annual tax shall be applied as follows:

14 (1) First, to any interest due on the tax.

15 (2) Second, to any penalty imposed by this part.

16 (3) The balance, if any, to the tax itself.

17 (b) This section shall become operative on July 1, 2013.

18 SEC. 107. Section 12679 of the Revenue and Taxation Code
19 is repealed.

20 ~~12679. (a) If an insurer's right to do business has been forfeited
21 or its corporate powers suspended, service of summons may be
22 made upon the persons designated by law to be served as agents
23 or officers of the insurer, and these persons are the agents of the
24 insurer for all purposes necessary in order to prosecute the action.
25 In the case of corporations whose powers have been suspended,
26 the persons constituting the board of directors may defend the
27 action.~~

28 ~~(b) This section shall become operative on July 1, 2012.~~

29 SEC. 108. Section 12679 is added to the Revenue and Taxation
30 Code, to read:

31 12679. (a) If an insurer's or Medi-Cal managed care plan's
32 right to do business has been forfeited or its corporate powers
33 suspended, service of summons may be made upon the persons
34 designated by law to be served as agents or officers of the insurer
35 or Medi-Cal managed care plan, and these persons are the agents
36 of the insurer or Medi-Cal managed care plan for all purposes
37 necessary in order to prosecute the action. In the case of
38 corporations whose powers have been suspended, the persons
39 constituting the board of directors may defend the action.

1 (b) This section shall be operative on July 1, 2012, and become
2 inoperative on July 1, 2013. As of January 1, 2015, this section
3 shall be repealed.

4 SEC. 109. Section 12679 is added to the Revenue and Taxation
5 Code, to read:

6 12679. (a) If an insurer's right to do business has been
7 forfeited or its corporate powers suspended, service of summons
8 may be made upon the persons designated by law to be served as
9 agents or officers of the insurer, and these persons are the agents
10 of the insurer for all purposes necessary in order to prosecute the
11 action. In the case of corporations whose powers have been
12 suspended, the persons constituting the board of directors may
13 defend the action.

14 (b) This section shall become operative on July 1, 2013.

15 SEC. 110. Section 12681 of the Revenue and Taxation Code
16 is repealed.

17 ~~12681. (a) In the action, a certificate of the Controller or of
18 the secretary of the board, showing unpaid taxes against an insurer
19 is prima facie evidence of:~~

20 ~~(1) The assessment of the taxes.~~

21 ~~(2) The delinquency.~~

22 ~~(3) The amount of the taxes, interest, and penalties due and
23 unpaid to the state.~~

24 ~~(4) That the insurer is indebted to the state in the amount of
25 taxes, interest, and penalties appearing unpaid.~~

26 ~~(5) That there has been compliance with all the requirements
27 of law in relation to the assessment of the taxes.~~

28 ~~(b) This section shall become operative on July 1, 2012.~~

29 SEC. 111. Section 12681 is added to the Revenue and Taxation
30 Code, to read:

31 12681. (a) In the action, a certificate of the Controller or of
32 the secretary of the board, showing unpaid taxes against an insurer
33 or Medi-Cal managed care plan is prima facie evidence of:

34 (1) The assessment of the taxes.

35 (2) The delinquency.

36 (3) The amount of the taxes, interest, and penalties due and
37 unpaid to the state.

38 (4) That the insurer or Medi-Cal managed care plan is indebted
39 to the state in the amount of taxes, interest, and penalties appearing
40 unpaid.

1 (5) That there has been compliance with all the requirements
 2 of law in relation to the assessment of the taxes.

3 (b) This section shall be operative on July 1, 2012, and become
 4 inoperative on July 1, 2013. As of January 1, 2015, this section
 5 shall be repealed.

6 SEC. 112. Section 12681 is added to the Revenue and Taxation
 7 Code, to read:

8 12681. (a) In the action, a certificate of the Controller or of
 9 the secretary of the board, showing unpaid taxes against an insurer
 10 is prima facie evidence of:

- 11 (1) The assessment of the taxes.
- 12 (2) The delinquency.
- 13 (3) The amount of the taxes, interest, and penalties due and
 14 unpaid to the state.

15 (4) That the insurer is indebted to the state in the amount of
 16 taxes, interest, and penalties appearing unpaid.

17 (5) That there has been compliance with all the requirements
 18 of law in relation to the assessment of the taxes.

19 (b) This section shall become operative on July 1, 2013.

20 SEC. 113. Section 12801 of the Revenue and Taxation Code
 21 is repealed.

22 ~~12801. (a) Annually, between December 10th and 15th, the
 23 Controller shall transmit to the commissioner a statement showing
 24 the names of all insurers that failed to pay on or before December
 25 10th the whole or any portion of the tax that became delinquent
 26 in the preceding June or which has been unpaid for more than 30
 27 days from the date it became due and payable as a deficiency
 28 assessment under this part or the whole or any part of the interest
 29 or penalties due with respect to the tax. The statement shall show
 30 the amount of the tax, interest, and penalties due from each insurer.~~

31 ~~(b) This section shall become operative on July 1, 2012.~~

32 SEC. 114. Section 12801 is added to the Revenue and Taxation
 33 Code, to read:

34 12801. (a) Annually, between December 10 and 15, the
 35 Controller shall transmit to the commissioner a statement showing
 36 the names of all insurers and Medi-Cal managed care plans that
 37 failed to pay on or before December 10 the whole or any portion
 38 of the tax that became delinquent in the preceding June or which
 39 has been unpaid for more than 30 days from the date it became
 40 due and payable as a deficiency assessment under this part or the

1 whole or any part of the interest or penalties due with respect to
2 the tax. The statement shall show the amount of the tax, interest,
3 and penalties due from each insurer or Medi-Cal managed care
4 plan.

5 (b) This section shall be operative on July 1, 2012, and become
6 inoperative on July 1, 2013. As of January 1, 2015, this section
7 shall be repealed.

8 SEC. 115. Section 12801 is added to the Revenue and Taxation
9 Code, to read:

10 12801. (a) Annually, between December 10th and 15th, the
11 Controller shall transmit to the commissioner a statement showing
12 the names of all insurers that failed to pay on or before December
13 10th the whole or any portion of the tax that became delinquent
14 in the preceding June or which has been unpaid for more than 30
15 days from the date it became due and payable as a deficiency
16 assessment under this part or the whole or any part of the interest
17 or penalties due with respect to the tax. The statement shall show
18 the amount of the tax, interest, and penalties due from each insurer.

19 (b) This section shall become operative on July 1, 2013.

20 SEC. 116. Section 12951 of the Revenue and Taxation Code
21 is repealed.

22 12951. (a) ~~If any amount has been illegally assessed, the board
23 shall set forth that fact in its records, certify the amount determined
24 to be assessed in excess of the amount legally assessed and the
25 insurer or surplus line broker against which the assessment was
26 made, and authorize the cancellation of the amount upon the
27 records of the Controller and the board. The board shall mail a
28 notice to the insurer or surplus line broker of any cancellation
29 authorized. Any proposed determination by the board pursuant to
30 this section with respect to an amount in excess of fifty thousand
31 dollars (\$50,000) shall be available as a public record for at least
32 10 days prior to the effective date of that determination.~~

33 ~~(b) This section shall become operative on July 1, 2012.~~

34 SEC. 117. Section 12951 is added to the Revenue and Taxation
35 Code, to read:

36 12951. (a) *If any amount has been illegally assessed, the board
37 shall set forth that fact in its records, certify the amount determined
38 to be assessed in excess of the amount legally assessed and the
39 insurer, surplus line broker, or Medi-Cal managed care plan
40 against which the assessment was made, and authorize the*

1 *cancellation of the amount upon the records of the Controller and*
2 *the board. The board shall mail a notice to the insurer, surplus*
3 *line broker, or Medi-Cal managed care plan of any cancellation*
4 *authorized. Any proposed determination by the board pursuant to*
5 *this section with respect to an amount in excess of fifty thousand*
6 *dollars (\$50,000) shall be available as a public record for at least*
7 *10 days prior to the effective date of that determination.*

8 *(b) This section shall be operative on July 1, 2012, and become*
9 *inoperative on July 1, 2013. As of January 1, 2015, this section*
10 *shall be repealed.*

11 *SEC. 118. Section 12951 is added to the Revenue and Taxation*
12 *Code, to read:*

13 *12951. (a) If any amount has been illegally assessed, the board*
14 *shall set forth that fact in its records, certify the amount determined*
15 *to be assessed in excess of the amount legally assessed and the*
16 *insurer or surplus line broker against which the assessment was*
17 *made, and authorize the cancellation of the amount upon the*
18 *records of the Controller and the board. The board shall mail a*
19 *notice to the insurer or surplus line broker of any cancellation*
20 *authorized. Any proposed determination by the board pursuant to*
21 *this section with respect to an amount in excess of fifty thousand*
22 *dollars (\$50,000) shall be available as a public record for at least*
23 *10 days prior to the effective date of that determination.*

24 *(b) This section shall become operative on July 1, 2013.*

25 *SEC. 119. Section 12977 of the Revenue and Taxation Code*
26 *is repealed.*

27 ~~12977. (a) If the board determines that any tax, interest, or~~
28 ~~penalty has been paid more than once or has been erroneously or~~
29 ~~illegally collected or computed, the board shall set forth that fact~~
30 ~~in its records of the board, certify the amount of the taxes, interest,~~
31 ~~or penalties collected in excess of what was legally due, and from~~
32 ~~whom they were collected or by whom paid, and certify the excess~~
33 ~~to the Controller for credit or refund.~~

34 ~~(b) The Controller upon receipt of a certification for credit or~~
35 ~~refund shall credit the excess on any amounts then due and payable~~
36 ~~from the insurer or surplus line broker under this part and refund~~
37 ~~the balance.~~

38 ~~(c) Any proposed determination by the board pursuant to this~~
39 ~~section with respect to an amount in excess of fifty thousand dollars~~

1 ~~(\$50,000) shall be available as a public record for at least 10 days~~
2 ~~prior to the effective date of that determination.~~

3 ~~(d) This section shall become operative on July 1, 2012.~~

4 *SEC. 120. Section 12977 is added to the Revenue and Taxation*
5 *Code, to read:*

6 *12977. (a) If the board determines that any tax, interest, or*
7 *penalty has been paid more than once or has been erroneously or*
8 *illegally collected or computed, the board shall set forth that fact*
9 *in its records of the board, certify the amount of the taxes, interest,*
10 *or penalties collected in excess of what was legally due, and from*
11 *whom they were collected or by whom paid, and certify the excess*
12 *to the Controller for credit or refund.*

13 *(b) The Controller upon receipt of a certification for credit or*
14 *refund shall credit the excess on any amounts then due and payable*
15 *from the insurer, surplus line broker, or Medi-Cal managed care*
16 *plan under this part and refund the balance.*

17 *(c) Any proposed determination by the board pursuant to this*
18 *section with respect to an amount in excess of fifty thousand dollars*
19 *(\$50,000) shall be available as a public record for at least 10 days*
20 *prior to the effective date of that determination.*

21 *(d) This section shall be operative on July 1, 2012, and become*
22 *inoperative on July 1, 2013. As of January 1, 2015, this section*
23 *shall be repealed.*

24 *SEC. 121. Section 12977 is added to the Revenue and Taxation*
25 *Code, to read:*

26 *12977. (a) If the board determines that any tax, interest, or*
27 *penalty has been paid more than once or has been erroneously or*
28 *illegally collected or computed, the board shall set forth that fact*
29 *in its records of the board, certify the amount of the taxes, interest,*
30 *or penalties collected in excess of what was legally due, and from*
31 *whom they were collected or by whom paid, and certify the excess*
32 *to the Controller for credit or refund.*

33 *(b) The Controller upon receipt of a certification for credit or*
34 *refund shall credit the excess on any amounts then due and payable*
35 *from the insurer or surplus line broker under this part and refund*
36 *the balance.*

37 *(c) Any proposed determination by the board pursuant to this*
38 *section with respect to an amount in excess of fifty thousand dollars*
39 *(\$50,000) shall be available as a public record for at least 10 days*
40 *prior to the effective date of that determination.*

1 (d) *This section shall become operative on July 1, 2013.*

2 *SEC. 122. Section 12983 of the Revenue and Taxation Code*
3 *is repealed.*

4 ~~12983. (a) Interest shall be allowed upon the amount of any~~
5 ~~overpayment of tax by an insurer pursuant to this part at the~~
6 ~~modified adjusted rate per month established pursuant to Section~~
7 ~~6591.5, from the first day of the monthly period following the~~
8 ~~period during which the overpayment was made. For purposes of~~
9 ~~this section, “monthly period” means the month commencing on~~
10 ~~the day after the due date of the payment through the same date~~
11 ~~as the due date in each successive month. In addition, a refund or~~
12 ~~credit shall be made of any interest imposed upon the claimant~~
13 ~~with respect to the amount being refunded or credited.~~

14 ~~The interest shall be paid as follows:~~

15 ~~(1) In the case of a refund, to the last day of the calendar month~~
16 ~~following the date upon which the claimant is notified in writing~~
17 ~~that a claim may be filed or the date upon which the claim is~~
18 ~~approved by the board, whichever date is the earlier.~~

19 ~~(2) In the case of a credit, to the same date as that to which~~
20 ~~interest is computed on the tax or amount against which the credit~~
21 ~~is applied.~~

22 ~~(b) This section shall become operative on July 1, 2012.~~

23 *SEC. 123. Section 12983 is added to the Revenue and Taxation*
24 *Code, to read:*

25 *12983. (a) Interest shall be allowed upon the amount of any*
26 *overpayment of tax by an insurer or Medi-Cal managed care plan*
27 *pursuant to this part at the modified adjusted rate per month*
28 *established pursuant to Section 6591.5, from the first day of the*
29 *monthly period following the period during which the overpayment*
30 *was made. For purposes of this section, “monthly period” means*
31 *the month commencing on the day after the due date of the payment*
32 *through the same date as the due date in each successive month.*
33 *In addition, a refund or credit shall be made of any interest*
34 *imposed upon the claimant with respect to the amount being*
35 *refunded or credited.*

36 *(b) The interest shall be paid as follows:*

37 *(1) In the case of a refund, to the last day of the calendar month*
38 *following the date upon which the claimant is notified in writing*
39 *that a claim may be filed or the date upon which the claim is*
40 *approved by the board, whichever date is the earlier.*

1 (2) *In the case of a credit, to the same date as that to which*
2 *interest is computed on the tax or amount against which the credit*
3 *is applied.*

4 (c) *This section shall be operative on July 1, 2012, and become*
5 *inoperative on July 1, 2013. As of January 1, 2015, this section*
6 *shall be repealed.*

7 SEC. 124. *Section 12983 is added to the Revenue and Taxation*
8 *Code, to read:*

9 12983. (a) *Interest shall be allowed upon the amount of any*
10 *overpayment of tax by an insurer pursuant to this part at the*
11 *modified adjusted rate per month established pursuant to Section*
12 *6591.5, from the first day of the monthly period following the*
13 *period during which the overpayment was made. For purposes of*
14 *this section, "monthly period" means the month commencing on*
15 *the day after the due date of the payment through the same date*
16 *as the due date in each successive month. In addition, a refund or*
17 *credit shall be made of any interest imposed upon the claimant*
18 *with respect to the amount being refunded or credited.*

19 (b) *The interest shall be paid as follows:*

20 (1) *In the case of a refund, to the last day of the calendar month*
21 *following the date upon which the claimant is notified in writing*
22 *that a claim may be filed or the date upon which the claim is*
23 *approved by the board, whichever date is the earlier.*

24 (2) *In the case of a credit, to the same date as that to which*
25 *interest is computed on the tax or amount against which the credit*
26 *is applied.*

27 (c) *This section shall become operative on July 1, 2013.*

28 SEC. 125. *Section 12984 of the Revenue and Taxation Code*
29 *is repealed.*

30 ~~12984. (a) If the board determines that any overpayment has~~
31 ~~been made intentionally or made not incident to a bona fide and~~
32 ~~orderly discharge of a liability reasonably assumed by the insurer~~
33 ~~or surplus line broker to be imposed by law, no interest shall be~~
34 ~~allowed on the overpayment.~~

35 ~~(b) If any insurer or surplus line broker which has filed a claim~~
36 ~~for refund requests the board to defer action on its claim, the board,~~
37 ~~as a condition to deferring action, may require the claimant to~~
38 ~~waive interest for the period during which the insurer or surplus~~
39 ~~line broker requests the board to defer action on the claim.~~

40 ~~(c) This section shall become operative on July 1, 2012.~~

1 SEC. 126. Section 12984 is added to the Revenue and Taxation
 2 Code, to read:

3 12984. (a) If the board determines that any overpayment has
 4 been made intentionally or made not incident to a bona fide and
 5 orderly discharge of a liability reasonably assumed by the insurer,
 6 surplus line broker, or Medi-Cal managed care plan to be imposed
 7 by law, no interest shall be allowed on the overpayment.

8 (b) If any insurer, surplus line broker, or Medi-Cal managed
 9 care plan that has filed a claim for refund requests the board to
 10 defer action on its claim, the board, as a condition to deferring
 11 action, may require the claimant to waive interest for the period
 12 during which the insurer, surplus line broker, or Medi-Cal
 13 managed care plan requests the board to defer action on the claim.

14 (c) This section shall be operative on July 1, 2012, and become
 15 inoperative on July 1, 2013. As of January 1, 2015, this section
 16 shall be repealed.

17 SEC. 127. Section 12984 is added to the Revenue and Taxation
 18 Code, to read:

19 12984. (a) If the board determines that any overpayment has
 20 been made intentionally or made not incident to a bona fide and
 21 orderly discharge of a liability reasonably assumed by the insurer
 22 or surplus line broker to be imposed by law, no interest shall be
 23 allowed on the overpayment.

24 (b) If any insurer or surplus line broker which has filed a claim
 25 for refund requests the board to defer action on its claim, the
 26 board, as a condition to deferring action, may require the claimant
 27 to waive interest for the period during which the insurer or surplus
 28 line broker requests the board to defer action on the claim.

29 (c) This section shall become operative on July 1, 2013.

30 SEC. 128. Section 13108 of the Revenue and Taxation Code
 31 is repealed.

32 ~~13108. (a) A judgment shall not be rendered in favor of the~~
 33 ~~plaintiff when the action is brought by or in the name of an assignee~~
 34 ~~of the insurer paying the tax, interest, or penalties, or by any person~~
 35 ~~other than the insurer that has paid the tax, interest, or penalties.~~

36 ~~(b) This section shall become operative on July 1, 2012.~~

37 SEC. 129. Section 13108 is added to the Revenue and Taxation
 38 Code, to read:

39 13108. (a) A judgment shall not be rendered in favor of the
 40 plaintiff when the action is brought by or in the name of an

1 assignee of the insurer or Medi-Cal managed care plan paying
2 the tax, interest, or penalties, or by any person other than the
3 insurer or Medi-Cal managed care plan that has paid the tax,
4 interest, or penalties.

5 (b) This section shall be operative on July 1, 2012, and become
6 inoperative on July 1, 2013. As of January 1, 2015, this section
7 shall be repealed.

8 SEC. 130. Section 13108 is added to the Revenue and Taxation
9 Code, to read:

10 13108. (a) A judgment shall not be rendered in favor of the
11 plaintiff when the action is brought by or in the name of an
12 assignee of the insurer paying the tax, interest, or penalties, or by
13 any person other than the insurer that has paid the tax, interest,
14 or penalties.

15 (b) This section shall become operative on July 1, 2013.

16 SEC. 131. Section 14301.11 is added to the Welfare and
17 Institutions Code, to read:

18 14301.11. (a) The department shall use funds attributable to
19 the tax on Medi-Cal managed care plans imposed by Section 12201
20 of the Revenue and Taxation Code for the purpose specified in
21 subdivision (b) of Section 12201 of the Revenue and Taxation
22 Code.

23 (b) This section shall be operative on July 1, 2012, and become
24 inoperative on July 1, 2013. As of January 1, 2015, this section
25 shall be repealed.

26 SEC. 132. There is hereby appropriated to the Managed Risk
27 Medical Insurance Board for the purposes of the Healthy Families
28 Program, to be available for expenditure in the 2012–13 fiscal
29 year, the sum of two hundred forty-five million dollars
30 (\$245,000,000) from the Federal Trust Fund.

31 SEC. 133. No reimbursement is required by this act pursuant
32 to Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within
38 the meaning of Section 6 of Article XIII B of the California
39 Constitution.

1 *SEC. 134. This act is an urgency statute necessary for the*
2 *immediate preservation of the public peace, health, or safety within*
3 *the meaning of Article IV of the Constitution and shall go into*
4 *immediate effect. The facts constituting the necessity are:*

5 *In order to make funding available to the Managed Risk Medical*
6 *Insurance Board for purposes of the Healthy Families Program*
7 *for the 2012—13 fiscal year, it is necessary that this act go into*
8 *effect immediately.*

9 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
10 ~~changes relating to the Budget Act of 2013.~~